APPENDIX

Supreme Court, U. S.
FILED
MAR 6 1975
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1974

Nos. 74-157 and 74-647

UNITED HOUSING FOUNDATION, INC., *et al.*,

Petitioners,

v.

MILTON FORMAN, *et al.*,

Respondents,

and

THE STATE OF NEW YORK and THE NEW YORK STATE HOUSING FINANCE AGENCY,

Petitioners,

v.

MILTON FORMAN, *et al.*,

Respondents.

On Writs of Certiorari to the United States Court of Appeals for the Second Circuit

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Petition for Certiorari in No. 74-157 Filed August 22, 1974

Petition for Certiorari in No. 74-647 Filed November 22, 1974

Certiorari Granted January 20, 1975

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Docket Entries in United States District Court for the Southern District of New York

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[72 Civ. 3980]

MILTON and ELLEN FORMAN, EARLE and PATRICIA MCFIELD, MICHAEL and PHYLLIS SICILIAN, JACK and DIANE R. BLACKIN, CARL and ALMA TROST, ROBERT and PAULINE CARRINGTON, GILBERT and GLORIA NARINS, MURRAY and HELENE VICTOR, JEROME and LEONORE BAER, HAROLD ASNIN, JOSEPH S. and WANDA D. O'CONNOR, ABRAHAM and IRENE KOPOLSKY, RICHARD FERGUSON, HYMAN and BEATRICE FERTEL, HERMAN and MYRA ACKERMAN, BERNARD and VICTORIA SEINFELD, FRANK and HILDA GLASSMAN, WALTER SIMON, THOMAS D. and ELSA A. MACLEAN, MELVYN and GLORIA PLOTZKER, GARY and CHARLOTTE STERN, MAX and BETTINA SCHWARTZHAUPT, HERMAN B. and ROSE GOLDBERG, STEPHEN and JUANITA REYNOLDS, ARTHUR and GERTRUDE LUCKER, ABRAHAM and HENRIETTE SCHENCK, REGINALD and ZENOBIA THOMAS, JOHN, JR. and ELISSA PYATT, ALBERT L. and RHODA ABRAMS, and JACK and PEARL HANDSCHUH, individually and on behalf of themselves and all others similarly situated, and in the right of RIVERBAY CORPORATION,

Plaintiffs,

against

COMMUNITY SERVICES, INC., UNITED HOUSING FOUNDATION, THE STATE OF NEW YORK, THE NEW YORK STATE HOUSING FINANCE AGENCY, HAROLD OSTROFF, ROBERT SZOLD, MILTON ALTMAN, GEORGE SCHECTER, ANTHONY MARINO, PAUL KRAMER, IRVING ALTER, JULIUS GOLDBERG and RIVERBAY CORPORATION,

Defendants.

Docket Entries

Date	Proceedings
Sep. 19-72	Filed complaint and issued summons
	• • •
Oct. 25-72	Filed Amended Complaint
Nov. 20-72	Filed Answer of New York State Finance Agency and State of New York LJL
	• • •
Dec. 14-72	Filed Answer of Riverbay Corp. to complaint.
Dec. 19-72	Filed Notice of Motion Ret. 1/2/73 at 10AM in Room 2601 re: dismiss amended complaint.
	• • •
Dec. 21-72	Filed Defts. State of NY & NYS Housing Finance Agency. Re: Dismiss Amended Complaint. Ret. 1/9/73.
	• • •
Apr. 1-73	Filed Supplemental Affidavit of George Berger to bring to the Court attention fact not aware. (for pltffs.)
	• • •
Apr. 6-73	Filed Notice of Cross Motion. Re: Summary Judgment, Amended Complaint, etc. ret. 2/6/73.
	• • •
Sep. 4-73	Filed Second Supplemental Affidavit by George Berger.
Sep. 6-73	Filed Opinion #39808 — The Complaint is therefore dismissed in its entirety for lack of subject matter jurisdiction. Pierce, J. (mailed notice)

Docket Entries

Date	Proceedings
Sep. 13-73	Filed Judgment. Ordered that defts. Community Services, Inc. et al. have judgment against the pltffs. Milton & Ellen Forman, et al., dismissing complaint in its entirety. Clerk. (mailed notice)
Oct. 3-73	Filed pltffs notice of appeal from order of dismissal dated 9-6-73—Mailed copies.
Oct. 3-73	Appeal Bond filed.
Oct. 17-73	Correcting Order filed by Judge Pierce.
	• • •

Docket Entries in the United States Court of Appeals for the Second Circuit

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

APPEAL FROM SOUTHERN DISTRICT

CASE No. 73-2613

[TITLE OMITTED IN PRINTING]

DATE	FILINGS—PROCEEDINGS
10-9-73	Filed copies of notice of appeal and docket entries
• • •	
12-28-73	Filed appendix, p/s
• • •	
4-4-74	Argument heard (By: Hays, Oakes, Christiansen)
6-12-74	Judgment reversed and remanded, Oakes, CJ
6-12-74	Filed judgment
• • •	
6-25-74	Filed petition for rehearing and rehearing en banc
6-28-74	Filed motion for a stay of the mandate pending application for a writ of certiorari, appellees, p/s
7-1-74	Filed affidavit in opposition to motion for a stay of the mandate, appellants, p/s

Docket Entries

DATE	FILINGS—PROCEEDINGS
7-2-74	Filed affidavit in reply to appellants affidavit in opposition to motion to stay the mandate, appellee, p/s
7-24-74	Filed order granting stay of mandate pending application for writ of certiorari (appellee)
8-22-74	Filed notice of filing of petition for writ of certiorari in Supreme Court (SC# 74-157)
9-9-74	Filed order denying petition for rehearing
9-9-74	Filed order denying petition for rehearing en banc
11-29-74	Filed notice of filing a petition for writ of certiorari (SC# 74-647)

Amended Complaint

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[TITLE OMITTED IN PRINTING]

Plaintiffs, by their attorneys, Phillips, Nizer, Benjamin, Krim & Ballon, complaining of defendants, allege:

JURISDICTION

1. Jurisdiction of this Court is based upon the Securities Laws of the United States, including, without limitation, sections 10, 20 and 27 of the Securities Exchange Act of 1934, 15 U.S.C. §§78j(b), 78t and 78aa, rule 10b-5 of the General Rules and Regulations under the Securities Exchange Act of 1934, 17 C.F.R. 240.10b-5, and sections 17(a) and 22(a) of the Securities Act of 1933, as amended, 15 U.S.C. §§77q(a) and 77v(a); The Civil Rights Act, 42 U.S.C. §§1983 and 1988, 28 U.S.C. §1343; 28 U.S.C. §1331; and jurisdiction pendent thereto. The amount in controversy exceeds $10,000 exclusive of interest and costs.

CLASS AND DERIVATIVE ACTION ALLEGATIONS

2. (a) Plaintiffs, all residents of the County of Bronx, State of New York, bring this action on their own behalf, as a class action on behalf of all other persons similarly situated, pursuant to Rule 23(b)(1)(B), (2) and (3) of the Federal Rules of Civil Procedure, and as a derivative action, pursuant to Rule 23.1 of the Federal Rules of Civil Procedure, in the right and for the benefit of Riverbay Corporation ("Riverbay"). As alleged in paragraph 5, *infra*, Riverbay is the corporate owner of Co-op City, a cooperative housing development. There are approximately 15,372 subscribers to and beneficial owners of the common stock of Riverbay who constitute the members of the class herein. In some instances, title may be joint in the names of a husband and wife, but for purposes of this complaint, the ownership of each apartment unit is treated as a single member of the class.

(b) Plaintiffs, who are, and at the time of the transactions herein complained of were, subscribers to and the beneficial owners of said common stock (a security within the meaning of the Securities Laws of the United States) of an aggregate value in excess of $50,000, will fairly and adequately protect the interests of said class. The instant action was authorized by the Advisory Council of Co-op City, without dissent. Said Advisory Council is a 133-member body elected by all of the residents of Co-op City. The funds necessary to finance this action were obtained by small contributions from more than 12,000 members of the class. The plaintiffs named herein have been selected to present a representative cross-section of the entire community. All members of the class purchased their stock in reliance upon the representations referred to herein.

(c) The questions of law and fact under the class action counts common to the entire class are:

(1) Whether the Information Bulletin and revised Information Bulletin made misstatements of material facts and failed to state material facts which were necessary to make the representations contained within said bulletins not misleading.

(2) What defendants actually knew or should have known concerning said material facts at the time of the publication and circulation of said bulletins.

(3) Whether defendants became fiduciaries to plaintiffs and, if so, when did the fiduciary relationship arise.

(4) Whether the wrongs alleged in the First through Ninth Counts are actionable under the statutes cited or at common law.

(d) Conducting this litigation as a class action is superior to all other available methods of fair and efficient adjudication of this controversy, since:

(1) The members of the class are too numerous to permit the institution and prosecution of separate actions; the cost and expense of such individual actions by individual purchasers alone when weighed against the recovery obtainable, would be prohibitive to the point of constituting an actual bar to the bringing of such actions;

(2) To the best of plaintiffs' knowledge, this action is the only action against defendants for the wrongs herein complained of;

(3) All of the members of the class reside in the Southern District of New York and therefore it is desirable to have the litigation of the claims of the class determined in this forum;

(4) Having this litigation proceed as a class action will result in substantial convenience to defendants by avoiding a multiplicity of actions and thereby will also be in the best interests of efficient judicial administration;

(5) Adjudication with respect to individual members of the class would as a practical matter dispose of the interests of the other members of the class not parties to such adjudication or substantially impair or impede their ability to protect their interests;

(6) Defendants have acted on grounds generally applicable to the class, thereby making appropriate final injunctive relief with respect to the class as a whole; and

(7) The difficulties likely to be encountered in the management of this action as a class action are certainly no greater than other cases of this nature which have heretofore been declared by this Court to be maintainable as class actions.

(e) This action is not a collusive one to confer jurisdiction on a court of the United States which it would not otherwise have.

THE PARTIES

3. Upon information and belief, defendant United Housing Foundation ("United") is a corporation organized and existing under the Not-for-Profit Corporation Law of the State of New York, which at all times mentioned herein was engaged, *inter alia,* in the sponsorship of middle-income cooperative housing.

4. Upon information and belief, defendant Community Services, Inc. ("Community") is a corporation organized and existing under the Business Corporation Law of the State of New York, which was used by United to build and sell middle-income cooperative housing sponsored by United.

5. Riverbay is a mutual company organized and existing under the Private Housing Finance Law of the State of New York (popularly called the Mitchell-Lama Act) for the purpose of owning and operating a middle-income cooperative housing development known as "Co-op City", comprising approximately 15,372 apartment units located in the County of Bronx, State of New York.

6. Defendant the State of New York ("State"), acting by and through the Commissioner of Housing and Community Renewal ("Commissioner") is required by the Mitchell-Lama Act to supervise the construction, sales and management of housing built pursuant thereto and is charged by said statute with the specific duty of preventing anything from being done which is improvident or prejudicial to the interest of the stockholders or the tenants of such housing.

7. Defendant the New York State Housing Finance Agency ("Agency") is a corporate agency of the State, created by the Mitchell-Lama Act, to help finance middle-income housing built pursuant to said Act by means of the sale of bonds and the making of mortgage loans.

8. Upon information and belief, defendants Harold Ostroff ("Ostroff"), Robert Szold ("Szold"), George Schechter ("Schechter") and Anthony Marino ("Marino") at all times mentioned herein were directors or officers, or both, of United.

9. Upon information and belief, defendants Ostroff, Szold, Milton Altman ("Altman"), Schechter, Marino, Paul Kramer ("Kramer"), Irving Alter ("Alter") and Julius Goldberg ("Goldberg") at all times mentioned herein were directors or officers, or both, of Community.

10. Upon information and belief, defendants Ostroff, Szold, Schechter, Kramer and Alter at all times mentioned herein were directors or officers, or both, of Riverbay.

11. Each of the individual defendants named in paragraphs 8 through 10, inclusive, is a "controlling person" within the meaning of the Securities Laws of the United States.

FIRST COUNT AGAINST ALL DEFENDANTS EXCEPT RIVERBAY

12. Prior to May, 1965, the defendants other than the State, the Agency and Riverbay, undertook to construct a cooperative housing development in Bronx County, New York, pursuant to the Mitchell-Lama Act. Pursuant to said undertaking, United caused Riverbay to be organized and applied to the State, acting by and through the Commissioner, for approval of a proposed development to be known as Co-op City, to be sponsored by United, owned by Riverbay, and constructed by Community to provide moderate-priced cooperative housing for people of limited means. Community was also to act as sales agent, soliciting and accepting subscriptions for the common stock of Riverbay, and to perform administrative services for Co-op City during construction and early occupancy. Thereafter, the State approved said application and defendants caused Riverbay to enter into a construction contract, a sales agency agreement and an administrative service agreement, all with Community and all dated June 18, 1965, which contract and agreements were approved by the State. In granting such approval, the State, acting by and through the Commissioner, expressly waived for Community the financial-responsibility pre-qualification theretofore promulgated by the Commissioner as a condition for approval of general contractors engaged by owners for construction of such housing projects.

13. Pursuant to the undertaking referred to in paragraph 12, defendants also caused Riverbay to enter into a building loan agreement with the Agency, dated July 15, 1965.

14. In accordance with the provisions of the Mitchell-Lama Act and in order to effectuate its purpose of providing moderate-priced housing for people of limited means,

the right to buy stock, and thus the opportunity of applying for said stock, was restricted to persons whose annual income did not exceed six times the estimated annual carrying charges (seven times in the case of families with three or more dependents) [Private Housing Finance Law §31].

15. Upon information and belief, commencing on or about May 12, 1965, United and Community and the individual defendants, with the approval and consent of the State, acting by and through the Commissioner, published and circulated and caused Riverbay to publish and circulate until on or about May 15, 1967, an "Information Bulletin" which was designed to interest the public in subscribing to and purchasing the common stock of Riverbay and which offered to sell said stock and expressly invited offers for such subscription and purchase.

16. The Information Bulletin purported to make true statements of certain material facts concerning Co-op City upon which defendants intended prospective purchasers to rely in deciding whether or not to invest all or a substantial part of their life savings in the purchase of Riverbay stock.

17. The Information Bulletin stated that the total estimated project cost of the Co-op City project was $283,695,550; that $32,795,550 of this amount was to be provided by stockholder-subscribers through the purchase of stock and/or other equity obligations; and that the balance was to be obtained by means of a $250,900,000 40-year, self-liquidating permanent loan to Riverbay from the Agency, secured by a first mortgage upon the land and buildings in Co-op City.

18. The Information Bulletin stated further that:

> "It is anticipated that the General Contractor for the construction of the project will be Community

> Services, Inc. of 465 Grand Street, New York 2, New York. The performance of certain sub-contracts to be made with the General Contractor will be insured by a surety company or companies in amounts to be approved by the Commissioner, in favor of the Housing Company [Riverbay], the General Contractor and the New York State Housing Finance Agency.
>
> • • •
>
> "The construction contract will be executed prior to the mortgage loan closing. The contract will provide for the payment of a lump sum price to the Contractor for the construction of the project, in the amount of $258,678,000, subject to addition or deduction for change orders during the progress of construction as approved by the Commissioner.
>
> "The contract price will include the sum of $2,000,000 for builder's home office overhead, but there will be no builder's fee. The risk of completing the construction within the lump sum price is upon the Contractor."

The Information Bulletin stated further that a copy of the construction contract was or would be made available for inspection by prospective purchasers and that they "should familiarize" themselves with it.

19. The construction contract between Community and Riverbay, dated June 18, 1965, provided for payment of a lump sum price of $258,507,750 for the construction of the project, including a flat fee of $2,000,000 for Community's "Home Office Overhead"; and, as to all items of construction cost other than said item of "Home Office Overhead", which items were specified in a schedule attached to the contract, the contract provided:

> "The Contractor [Community] guarantees payment for said items notwithstanding that the actual

cost for said items may exceed the amounts therein set forth."

20. The Information Bulletin stated further:

"Subject to the approval of the Commissioner, Community Services, Inc., of 465 Grand Street, New York, New York, has been retained by the Housing Company as sole agent for the sale of stock and/or other equity obligations and apartments in the project, at such fee as the Commissioner shall approve, not to exceed the amount shown in the schedule of the estimated project cost."

$450,000 was the amount shown in said schedule annexed to and made part of the construction contract.

21. The sales agency agreement between Community and Riverbay, dated June 18, 1965, provided that the total amount to be paid to Community would in no event exceed the sum of $450,000.

22. The Information Bulletin stated further that the average monthly carrying charge, required for the operation and maintenance of the project and the reduction of the mortgage loan, would be approximately $23.02 per room.

23. Upon information and belief, commencing on or about May 15, 1967, United and Community, with the approval and consent of the State, acting by and through the Commissioner, published and circulated and caused Riverbay to publish and circulate a revised "Information Bulletin" which, like the original Information Bulletin, was designed to interest the public in subscribing to and purchasing the common stock of Riverbay and, in fact, offered to sell such stock and included subscription agreement forms to be used by prospective purchasers thereof.

24. The revised Information Bulletin, like the original Information Bulletin, purported to make true statements of certain material facts concerning Co-op City, upon which defendants intended prospective purchasers to rely in deciding whether or not to invest all of a substantial part of their life savings in the purchase of Riverbay stock.

25. The revised Information Bulletin substantially reiterated the statements with respect to financing, construction and sales made in the original Information Bulletin and set forth in paragraphs 17, 18, 20 and 22 above, except that it stated:

(a) The total estimated development cost of the Co-op City project was $293,803,200, instead of $283,695,550;

(b) The amount of said development cost of the Co-op City project to be provided by stockholder-subscribers would be $32,803,200 instead of $32,795,550;

(c) The amount of the mortgage loan would be $261,000,000, instead of $250,900,000;

(d) The average monthly carrying charge would be approximately $25.00 per room, instead of $23.02;

(e) The lump-sum construction contract price was $267,830,750, instead of $258,507,750; and

(f) The fee to be paid to Community as sales agent would be $500,000, instead of $450,000.

26. On April 14, 1967, the construction contract between Community and Riverbay was modified, among other things, to increase the contract price from $258,507,750 to $267,830,750, and the sales agency agreement was modified

to increase the fee to be paid to Community from $450,000 to $500,000. The provisions of the contract and of the agreement in all other material respects were unchanged.

27. Plaintiffs received the Information Bulletin or the revised Information Bulletin, or both, and in reliance thereon subscribed to and paid for shares of common stock in Riverbay and thereafter entered into occupancy of apartments in Co-op City.

28. Upon information and belief, thousands of persons of limited means similarly received said Information Bulletins and in reliance thereon subscribed to and paid for shares of common stock in Riverbay and thereafter entered into occupancy of apartments in Co-op City.

29. Defendants engaged in acts, practices and a course of business which operated as a fraud and deceit upon the public in that they published and circulated, and caused to be published and circulated, as aforesaid, the Information Bulletin and the revised Information Bulletin, which omitted to state the material facts that the construction contract and the sales agency agreement would be modified from time to time so as to provide for payment to Community of increased compensation, and that a third agreement—the administrative service agreement between Community and Riverbay, dated June 18, 1965, providing for payment to Community of $200,000—was in existence and that such agreement would be modified from time to time so as to provide for payment to Community of increased compensation, which facts were necessary to make the representations set forth and referred in paragraphs 17, 18, 20, 22 and 25, above, not misleading, and which Information Bulletin and revised Information Bulletin contained representations which constituted untrue and deceptive statements of material facts, as hereinbelow alleged.

30. Upon information and belief, defendants never intended that Community would be required to adhere to the lump-sum contract price or that the risk of completing construction of Co-op City within the lump-sum price stated in the Information Bulletin and the revised Information Bulletin would be upon Community.

31. While the Information Bulletin and the revised Information Bulletin, as the case may be, were being published and circulated, the said representations made therein were false in that, with regard to those stockholder-subscribers who subscribed for their stock in sole reliance on the Information Bulletin: on April 14, 1967, by agreement between Community and Riverbay, with the consent and approval of the State, acting by and through the Commissioner, but without notice to the then-existing and prospective stockholder-subscribers of Riverbay, and without changing the Information Bulletin, the lump-sum construction contract price was increased from $258,507,750 to $267,830,750, an increase of $9,323,000; and in that, with regard to all stockholder-subscribers, including those who subscribed for their stock on sole reliance on the Information Bulletin:

(a) On January 22, 1968, by agreement between Community and Riverbay, with the consent and approval of the State, acting by and through the Commissioner, but without notice to the existing and prospective stockholder-subscribers of Riverbay, and without changing the revised Information Bulletin, the lump-sum construction contract price was increased again, from $267,830,750 to $268,080,750, an increase of $250,000 and an aggregate increase of $9,578,000 from the original contract price;

(b) On March 29, 1968, by agreement between Community and Riverbay, with the consent and ap-

proval of the State, acting by and through the Commissioner, but without notice to the then-existing and prospective stockholder-subscribers of Riverbay, and without changing the revised Information Bulletin, the lump-sum construction contract price was increased the third time, from $268,080,750, to $269,980,750, an increase of $1,900,000 and an aggregate increase of $11,478,000 from the original contract price.

(c) On October 9, 1969, by agreement between Community and Riverbay, with the consent and approval of the State, acting by and through the Commissioner, but without notice to the then-existing and prospective stockholder-subscribers of Riverbay, and without changing the revised Information Bulletin, the lump-sum construction contract price was increased the fourth time, from $269,980,750 to $310,500,000, an increase of $40,519,250 and an aggregate increase of $51,997,250 from the original contract price.

(d) On July 7, 1971, by agreement between Community and Riverbay, with the consent and approval of the State, acting by and through the Commissioner, but without notice to the then-existing and prospective stockholder-subscribers of Riverbay, and without changing the revised Information Bulletin, the lump-sum construction contract price was increased the fifth time, from $310,500,000 to $340,500,000, an increase of $30,000,000 and an aggregate increase of $81,997,250 from the original contract price of $258,507,750.

(e) Upon information and belief, Community, with the consent and approval of the State, acting by and through the Commissioner, but without notice to

the then-existing and prospective stockholder-subscribers of Riverbay, and without changing the Information Bulletin and revised Information Bulletin, waived sub-contractor's performance bonds.

(f) Upon information and belief, Community and Riverbay, with the consent and approval of the State, acting by and through the Commissioner, but without notice to the then-existing and prospective stockholder-subscribers of Riverbay, and without changing said Information Bulletin and said revised Information Bulletin, increased the fee to Community for "Builder's Home Office Overhead" to $3,050,000 from the specified sum of $2,000,000, and said increased fee was included as an item of the increased construction contract price.

(g) The facts set forth in paragraphs 32, 33 and 34 had also occurred.

32. Because of and in addition to the increase in the price of the construction contract, the costs of related service fees were likewise increased by $2,510,000, without the knowledge or consent of plaintiffs, as follows:

(a) Architect's fees increased from $2,350,000 to $2,975,000;

(b) Engineer's and laboratory fees increased from $750,000 to $1,275,000;

(c) Surveyor's fees increased from $400,000 to $1,450,000;

(d) Legal fees increased from $150,000 to $210,000;

(e) Selling expenses (payable to Community) increased from $450,000 to $600,000;

(f) Administrative expenses (payable to Community) increased from $200,000 to $300,000.

33. By reason of the foregoing, the construction cost was increased $81,997,250 and related service fees were increased $2,510,000, for a total increase of $84,507,250. In order to provide funds to pay for said increases, defendants caused Riverbay to enter into several agreements with the Agency, without the knowledge or consent of plaintiffs, whereby the original mortgage loan to Riverbay was increased by an amount sufficient to cover the increases in construction cost and related services, as well as still further increases in financing costs incurred as a result of the increase in the amount of the mortgage loan itself. In requesting and approving and in granting said increases in the mortgage loan, the Commissioner and the Agency acted with full knowledge that said increases were contrary to and in violation of the representations contained in the Information Bulletin and the revised Information Bulletin and exceeded the authority of Riverbay.

34. The mortgage loan was increased from $236,655,710 to $375,755,710, and corresponding financing costs were increased by $66,624,000, as follows:

(a) Supervising governmental agency fees (New York State Department of Housing and Community Renewal) increased from $2,509,000 to $3,510,000;

(b) New York State Housing Finance Agency fees increased from $501,800 to $1,170,000;

(c) Title and recording expenses increased from $340,000 to $545,000;

(d) Interest, capitalized for the construction period, increased from $6,250,000 to $71,000,000.

35. In order to obtain the necessary monies to repay said increased mortgage loan, defendants, with the consent and approval of the State, acting by and through the Commissioner, caused Riverbay to increase the average monthly carrying charge levied on plaintiffs from an estimated $23.02 per room in 1965, to $25.00 in 1967, to $31.46 from July 1, 1970 through December 31, 1972, to $37.75 from January 1, 1973 through June 30, 1974, to $42.47 commencing July 1, 1974, all without the consent of the plaintiffs.

36. The eligibility limitations on purchasing stock in Riverbay set forth in paragraph 14 above, which made it impossible for those persons to become stockholder-subscribers of Riverbay who might otherwise have been able to afford to pay said increased carrying charges, compounded the economic hardship suffered by plaintiffs by reason of the said increases.

37. Upon information and belief, in or about October, 1968, with knowledge that the Information Bulletin and the revised Information Bulletin omitted to state material facts and that said Bulletin and revised Bulletin contained representations which were false and misleading, defendants attempted to obtain from the stockholder-subscribers of Riverbay a waiver of defendants' obligation to comply with the provisions of the Securities Laws of the United States, by creating and submitting to Riverbay's stockholder-subscribers a letter which purported to alert them to an unspecified increase in carrying charges in 1970-71 (but which did not refer to later and larger increases). Said letter falsely and misleadingly represented that such increase was "inevitable" by reason of, among other things, "construction cost increases", and deliberately omitted to state the fact that Community was obligated by its contract with Riverbay to pay such construction cost increases and that Riverbay was not so obligated.

38. Plaintiffs, and all persons similarly situated, have been damaged in that they paid approximately $32,000,000 for their shares of Riverbay common stock, and paid and will be obliged to pay carrying charges greatly in excess of the sums which it was represented in the Information Bulletin and the revised Information Bulletin that they would be required to pay.

39. Upon information and belief, the acts and transactions hereinabove alleged, which were not known or discovered by plaintiffs until 1972, directly and indirectly involved the use of a means or instrumentality of interstate commerce and of the mails in that copies of the Information Bulletin and of the revised Information Bulletin and the subscription agreements (referred to and contained therein) were distributed through the mails, and requests for said Bulletins and for subscription agreements were received and accepted by defendants over the telephone and through the mails.

SECOND COUNT AGAINST ALL DEFENDANTS EXCEPT RIVERBAY

40. Repeat and reallege each and every allegation contained in paragraphs 12 through 39 hereof with the same force and effect as if fully set forth herein.

41. Upon information and belief, the statements and representations set forth and referred to in paragraphs 17, 18, 20, 22 and 25 above were false and were known to defendants to be false when made, or were made recklessly, without knowledge of their truth or falsity, and were made with the knowledge that whoever might read or learn of said statements and representations, including plaintiffs, would rely thereon.

42. In reliance upon said statements and representations and believing the same to be true, plaintiffs subscribed to and paid for shares of said stock, sold or surrendered their prior homes or apartments, and entered into occupancy of apartments in Co-op City.

43. Upon information and belief, thousands of other stockholder-subscribers were similarly deceived and defrauded and, as a result of their belief in and reliance upon said false statements and representations, purchased shares of Riverbay common stock, sold or surrendered their prior homes or apartments, and entered into occupancy of apartments in Co-op City.

44. Plaintiffs, and all persons similarly situated, have been damaged in that they have paid approximately $32,000,000 for their shares of Riverbay common stock, and paid and will be obliged to pay carrying charges greatly in excess of the sums which it was represented that they would be required to pay and which they actually were obligated to pay under the original agreements.

THIRD COUNT AGAINST ALL DEFENDANTS EXCEPT RIVERBAY

45. Repeat and reallege each and every allegation contained in paragraphs 12 through 38 and paragraphs 41 through 44 hereof with the same force and effect as if fully set forth herein.

46. Upon information and belief, the acts and transactions hereinabove alleged were not known or discovered by plaintiffs until 1972.

47. Upon information and belief, in the light of all the circumstances, and the purpose of the Mitchell-Lama Act, said false statements and representations and the acts,

practices and course of business engaged in by defendants, hereinabove alleged, constituted a gross fraud aimed at the public, committed with wanton indifference to legal obligations and a reckless disregard for consequences, and involving a high degree of moral culpability.

FOURTH COUNT AGAINST ALL DEFENDANTS EXCEPT RIVERBAY

48. Repeat and reallege each and every allegation contained in paragraphs 12 through 38 and 46 hereof with the same force and effect as if fully set forth herein.

49. Upon information and belief, the statements and representations set forth and referred to in paragraphs 17, 18, 20, 22 and 25 were false, and defendants knew said statements and representations to be false when made, or with reasonable effort could have known the truth with respect to said statements and representations, or made no reasonable effort to ascertain the truth with respect thereto, or did not have knowledge concerning said representations and statements.

50. Said Information Bulletin and revised Information Bulletin were published and circulated by defendants to induce or promote the sale or purchase within or from the State of New York of securities as defined in Section 352 of the General Business Law of the State of New York.

51. Repeat and reallege each and every allegation contained in paragraphs 42, 43 and 44 hereof with the same force and effect as if fully set forth herein.

FIFTH COUNT AGAINST DEFENDANTS COMMUNITY, STATE, AGENCY, OSTROFF, SZOLD, ALTMAN, SCHECHTER, MARINO, KRAMER, ALTER AND GOLDBERG

52. With respect to the defendants named herein, repeat and reallege each and every allegation contained in paragraphs 12, 13, 19 and 21 hereof with the same force and effect as if fully set forth herein.

53. On June 18, 1965, defendants caused Riverbay to enter into an administrative service agreement with Community, which provided for the payment to Community of $200,000.

54. Upon information and belief, before and after May 12, 1965 numerous persons, all members of the class herein, subscribed to the common stock of Riverbay and paid thousands of dollars to Riverbay as down payments thereon.

55. By reason of the subscriptions and payments hereinabove alleged, defendants became fiduciaries to plaintiffs.

56. Upon information and belief, defendants thereafter breached said fiduciary obligations by knowingly causing Riverbay to pay and incur expenses for which it had no legal obligation and for which plaintiffs would be ultimately required to provide funds through increased carrying charges, as hereinbelow alleged.

57. With respect to the defendants named herein, repeat and reallege each and every allegation contained in paragraph 26 hereof with the same force and effect as if fully set forth herein.

58. On January 22, 1968, by agreement between Community and Riverbay, with the consent and approval of the

State, acting by and through the Commissioner, the lump-sum construction contract price was increased again, from $267,830,750 to $268,080,750, an increase of $250,000 and an aggregate increase of $9,578,000 from the original contract price.

59. On March 29, 1968, by agreement between Community and Riverbay, with the consent and approval of the State, acting by and through the Commissioner, the lump-sum construction contract price was increased the third time, from $268,080,750 to $269,980,750, an increase of $1,900,000 and an aggregate increase of $11,478,000 from the original contract price.

60. On October 9, 1969, by agreement between Community and Riverbay, with the consent and approval of the State, acting by and through the Commissioner, the lump-sum construction contract price was increased the fourth time, from $269,980,750 to $310,500,000, an increase of $40,519,250 and an aggregate increase of $51,997,250 from the original contract price.

61. On July 7, 1971, by agreement between Community and Riverbay, with the consent and approval of the State, acting by and through the Commissioner, the lump-sum construction contract price was increased the fifth time, from $310,500,000 to $340,500,000, an increase of $30,000,000 and an aggregate increase of $81,997,250 from the original contract price of $258,507,750.

62. Upon information and belief, Community, with the consent and approval of the State, acting by and through the Commissioner, waived subcontractor's performance bonds.

63. Upon information and belief, Community and Riverbay, with the consent and approval of the State,

acting by and through the Commissioner, increased the fee to Community for "Builder's Home Office Overhead" to $3,050,000 from the specified sum of $2,000,000, and said increased fee was included as an item of the increased construction contract price.

64. Because of and in addition to the increase in the price of the construction contract, the costs of related service fees were likewise increased by $2,510,000, as follows:

(a) Architect's fees increased from $2,350,000 to $2,975,000;

(b) Engineer's and laboratory fees increased from $750,000 to $1,275,000;

(c) Surveyor's fees increased from $400,000 to $1,450,000;

(d) Legal fees increased from $150,000 to $210,000;

(e) Selling expenses (payable to Community) increased from $450,000 to $600,000;

(f) Administrative expenses (payable to Community) increased from $200,000 to $300,000.

65. By reason of the foregoing, the construction cost was increased $81,997,250 and related service fees were increased $2,510,000, for a total increase of $84,507,250. In order to provide funds to pay for said increases, defendants caused Riverbay to enter into several agreements with the Agency whereby the original mortgage loan to Riverbay was increased by an amout sufficient to cover the increases in construction cost and related services, as well as still further increases in financing costs incurred as a result of the increase in the amount of the mortgage loan

itself. In requesting and approving and in granting said increases in the mortgage loan, the Commissioner and the Agency acted with full knowledge that said increases were contrary to the original contract and agreements between Riverbay and Community and exceeded the authority of Riverbay.

66. With respect to the defendants named herein, repeat and reallege each and every allegation contained in paragraph 34 hereof with the same force and effect as if fully set forth herein.

67. Plaintiffs, and all persons similarly situated, have been damaged in that they have paid and will be obliged to pay carrying charges greatly in excess of the sums which they would be required to pay had defendants not breached their fiduciary obligations to plaintiffs.

SIXTH COUNT AGAINST DEFENDANTS COMMUNITY, STATE, OSTROFF, SZOLD, SCHECHTER, MARINO AND GOLDBERG

68. Prior to May, 1965, the defendants other than the State, the Agency and Riverbay undertook to construct a cooperative housing development in Bronx County, New York, pursuant to the Mitchell-Lama Act. Pursuant to said undertaking, United caused Riverbay to be organized and applied to the State, acting by and through the Commissioner, for approval of a proposed development to be known as Co-op City, to be sponsored by United, owned by Riverbay, and constructed by Community to provide moderate-priced cooperative housing for people of limited means. Thereafter, defendants caused Riverbay to enter into a construction contract with Community dated June 18, 1965, which contract was approved by the State.

69. With respect to the defendants named herein, repeat and reallege each and every allegation contained in paragraphs 54 through 56 hereof with the same force and effect as if fully set forth herein.

70. Pursuant to the construction contract between Riverbay and Community, the construction costs of Co-op City chargeable to Riverbay could only be increased by reason of change orders for "additional or extra work" or decreased by reason of change orders for "work deleted."

71. Upon information and belief, defendants knowingly caused Riverbay to accept and pay for increased costs of construction which were not properly chargeable to Riverbay and they knowingly failed to obtain for Riverbay cost reductions for changes in the work for which a reduction should have been given.

72. Plaintiffs, and all persons similarly situated, have been damaged in that they have paid and will be obliged to pay carrying charges greatly in excess of the sums which they would be required to pay had defendants not breached their fiduciary obligations to plaintiffs.

73. By reason of the foregoing, plaintiffs have been damaged in a sum presently unknown to them but for which an accounting is required.

SEVENTH COUNT AGAINST DEFENDANTS COMMUNITY, STATE, OSTROFF, SZOLD, ALTMAN, SCHECHTER AND GOLDBERG

74. Prior to May, 1965, the defendants other than the State, the Agency and Riverbay undertook to construct a cooperative housing development in Bronx County, New York, pursuant to the Mitchell-Lama Act. Pursuant to

said undertaking, United caused Riverbay to be organized and applied to the State, acting by and through the Commissioner, for approval of a proposed development to be known as Co-op City, to be sponsored by United, owned by Riverbay, and constructed by Community to provide moderate-priced cooperative housing for people of limited means.

75. With respect to the defendants named herein, repeat and reallege each and every allegation contained in paragraphs 54 through 56 hereof with the same force and effect as if fully set forth herein.

76. Upon information and belief, notwithstanding that defendants knew there was no need to construct an electric power plant and had represented in the revised Information Bulletin that Riverbay would purchase its power requirements, defendants caused Riverbay to pay $27,200,000 to Community for the construction of an electric power plant and to pay further sums for the maintenance thereof, although electricity is in fact purchased from Consolidated Edison and paid for by plaintiffs by means of a separate charge over and above the monthly carrying charge.

77. Plaintiffs, and all persons similarly situated, have been damaged in that they have paid and will be obliged to pay additional carrying charges on account of said $27,200,000 which they would not have been required to pay had defendants not breached their fiduciary obligations to plaintiffs.

EIGHTH COUNT AGAINST DEFENDANTS COMMUNITY, STATE, OSTROFF AND SCHECHTER

78. With respect to the defendants named herein, repeat and reallege each and every allegation contained in paragraphs 74, 54 and 55 hereof with the same force and effect as if fully set forth herein.

79. Upon information and belief, defendants thereafter breached said fiduciary obligations as hereinbelow alleged.

80. Co-op City, when constructed, included certain space designed for occupancy by commercial tenants operating retail stores.

81. The rental income from said tenants is paid to Riverbay and is used by it to meet its obligations.

82. Upon information and belief, defendants knowingly caused some of said stores to be leased by Riverbay for less than a fair rental value and thereby deprived Riverbay of approximately $500,000 in rental income.

83. As a result thereof, plaintiffs, and all persons similarly situated, have been damaged in that they have paid and will be obliged to pay additional carrying charges aggregating approximately $500,000 which they would not have been required to pay had defendants not breached their fiduciary obligations to plaintiffs.

NINTH COUNT AGAINST DEFENDANT AGENCY

84. With respect to the defendant named herein, repeat and reallege each and every allegation contained in paragraphs 12 through 39 hereof with the same force and effect as if fully set forth herein.

85. The foregoing constitutes a deprivation by defendant, under color of statute, regulation, custom or usage of the State of New York, of the rights, privileges or immunities secured to plaintiffs by the Constitution and laws of the United States.

86. Plaintiffs have no adequate remedy at law.

TENTH COUNT ON BEHALF OF RIVERBAY AGAINST DEFENDANTS COMMUNITY, STATE, AGENCY, OSTROFF, SZOLD, ALTMAN, SCHECHTER, MARINO, KRAMER, ALTER, GOLDBERG AND RIVERBAY

87. At all times mentioned herein, defendants Community, United and State dominated and controlled Riverbay and selected its directors and officers. By reason thereof, the defendant named herein owed a fiduciary obligation to Riverbay.

88. With respect to the defendants named herein, repeat and reallege each and every allegation contained in paragraphs 12, 13, 19, 21 and 53 hereof with the same force and effect as if fully set forth herein.

89. Upon information and belief, defendants, in violation of their fiduciary obligations to Riverbay, thereafter wasted the assets of Riverbay as hereinbelow alleged.

90. With respect to the defendants herein, repeat and reallege each and every allegation contained in paragraphs 26, 58 through 65, and 34 hereof with the same force and effect as if fully set forth herein.

91. The performance by Riverbay of said contract and agreements, as modified, in the future, would constitute continuing wrongs to Riverbay.

92. Riverbay has no adequate remedy at law.

93. A demand upon Riverbay to institute an action against defendants has not been made inasmuch as Riverbay is dominated and controlled by defendants themselves and such a demand would therefore be futile.

ELEVENTH COUNT ON BEHALF OF RIVERBAY AGAINST DEFENDANTS COMMUNITY, STATE, OSTROFF, SZOLD, SCHECHTER, MARINO, GOLDBERG AND RIVERBAY

94. With respect to the defendants named herein, repeat and reallege each and every allegation contained in paragraphs 68, 87, 89, 70 and 71 hereof, with the same force and effect as if fully set forth herein.

95. By reason of the foregoing, Riverbay has been damaged in a sum presently unknown to it but for which an accounting is required.

96. A demand upon Riverbay to institute an action against defendants has not been made inasmuch as Riverbay is dominated and controlled by defendants themselves and such a demand would therefore be futile.

TWELFTH COUNT ON BEHALF OF RIVERBAY AGAINST DEFENDANTS COMMUNITY, STATE, OSTROFF, SZOLD, ALTMAN, SCHECHTER, GOLDBERG AND RIVERBAY

97. Prior to May, 1965, the defendants other than the State, the Agency and Riverbay undertook to construct a cooperative housing development in Bronx County, New York, pursuant to the Mitchell-Lama Act. Pursuant to said undertaking, United caused Riverbay to be organized and applied to the State, acting by and through the Commissioner, for approval of a proposed development to be

known as Co-op City, to be sponsored by United, owned by Riverbay, and constructed by Community to provide moderate-priced cooperative housing for people of limited means.

98. With respect to the defendants named herein, repeat and reallege each and every allegation contained in paragraphs 87 and 89 hereof with the same force and effect as if fully set forth herein.

99. Upon information and belief, notwithstanding the fact that Riverbay never intended to produce its own electric power and so represented in the revised Information Bulletin, defendants caused Riverbay to pay $27,200,000 to Community for the construction of an electric power plant and to pay further sums for the maintenance thereof, all to its damage in the further sum of at least $27,200,000.

100. A demand upon Riverbay to institute an action against defendants has not been made inasmuch as Riverbay is dominated and controlled by defendants themselves and such a demand would therefore be futile.

THIRTEENTH COUNT ON BEHALF OF RIVERBAY AGAINST DEFENDANTS COMMUNITY, STATE, OSTROFF, SCHECHTER AND RIVERBAY

101. Prior to May, 1965, the defendants other than the State, the Agency and Riverbay undertook to construct a cooperative housing development in Bronx County, New York, pursuant to the Mitchell-Lama Act. Pursuant to said undertaking, United caused Riverbay to be organized and applied to the State, acting by and through the Commissioner, for approval of a proposed development to be known as Co-op City, to be sponsored by United, owned by Riverbay, and constructed by Community to provide moderate-priced cooperative housing for people of limited means.

102. With respect to the defendants named herein, repeat and reallege each and every allegation contained in paragraphs 87 and 89 hereof with the same force and effect as if fully set forth herein.

103. Upon information and belief, defendants knowingly caused some of said stores to be leased by Riverbay for less than a fair rental value and thereby deprived Riverbay of approximately $500,000 in rental income, to the damage of Riverbay in the further sum of $500,000.

104. A demand upon Riverbay to institute an action against defendants has not been made inasmuch as Riverbay is dominated and controlled by defendants themselves and such a demand would therefore be futile.

WHEREFORE, plaintiffs demand judgment as follows:

1. Modifying and reducing the mortgage from Riverbay to the Agency to the extent that said mortgage exceeds a sum properly and lawfully chargeable to Riverbay.

2. Enjoining and restraining, permanently and during the pendency of this action, the collection of any carrying charges attributable to the amortization of, interest on and service fees relating to the portion of said mortgage which exceeds said sum.

3. Awarding damages against defendants in favor of plaintiffs for the sums paid by plaintiffs and to be paid by them as additional carrying charges to meet obligations imposed upon Riverbay by defendants which are in excess of the obligations represented to plaintiffs in the

Information Bulletin and the revised Information Bulletin and the original contracts entered into by Riverbay.

4. Awarding punitive damages against defendants in favor of plaintiffs in an amount to be determined.

5. Cancelling all agreements between Riverbay and defendants or any of them which require Riverbay to pay in the future any sums in excess of those sums it was obligated to pay under the original contracts entered into by Riverbay.

6. Requiring the defendants named in the Tenth and Eleventh Counts to account for and pay over to Riverbay all sums received by them from Riverbay in excess of the amounts which Riverbay was obligated to pay under the original contracts entered into by Riverbay.

7. Awarding damages against defendants in favor of Riverbay in an amount equal to all sums paid or required to be paid by Riverbay in excess of those sums it was obligated to pay under the original contracts entered into by Riverbay.

8. Awarding damages against the defendants named in the Twelfth Count in favor of Riverbay for at least $27,200,000 for the cost of the Co-op City electric power plant.

9. Awarding damages against the defendants named in the Thirteenth Count in favor of Riverbay for $500,000 for lost commercial rental income.

10. Awarding plaintiffs the costs and disbursements of this action, including reasonable counsel and accountants' fees.

11. Such other and further relief as to this Court may seem just and proper.

PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON

by s/ Louis Nizer

LOUIS NIZER
A Member of the Firm
477 Madison Avenue
New York, N. Y. 10022
(212) 758-6700

Attorneys for Plaintiffs

[Verification by Milton Forman Omitted]

Notice of Motion of Defendants United Housing Foundation, *et al.*, to Dismiss the Amended Complaint

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[TITLE OMITTED IN PRINTING]

SIRS:

PLEASE TAKE NOTICE that upon the annexed affidavit of Harold Ostroff, sworn to December 19, 1972, and the exhibits annexed thereto, and upon the Amended Complaint herein, the undersigned will move this Court before Hon. Lawrence W. Pierce, D.J., in Room 2601, United States Courthouse, Foley Square, New York, N. Y. on January 2, 1973 at 10:00 A.M. or as soon thereafter as counsel can be heard, for an order, pursuant to Rule 12 of the Federal Rules of Civil Procedure, dismissing the Amended Complaint in its entirety as against them on the ground that this Court lacks subject matter jurisdiction over the claims set forth therein.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 9(c) of the General Rules of this Court, answering papers

and memoranda are required to be served at least three days before the return date of this motion.

Dated: New York, New York
December 19, 1972

Yours, etc.,

PAUL, WEISS, RIFKIND, WHARTON & GARRISON

By s/ Martin London

Attorneys for Defendants
Community Services, Inc.,
United States Housing Foundation,
Harold Ostroff, Robert Szold,
Milton Altman, George Schechter,
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s/ Alan G. Blumberg

ALAN G. BLUMBERG
Co-Attorney for Defendants
Robert Szold, Milton Altman and
Irving Alter
30 Broad Street
New York, New York 10004
(212) 422-1777

To:

[Names of Attorneys on Whom Served Omitted in Printing]

Notice of Motion of Defendants New York State and New York State Housing Finance Agency to Dismiss the Amended Complaint

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[TITLE OMITTED IN PRINTING]

SIRS:

PLEASE TAKE NOTICE that, upon all the papers heretofore filed herein, the undersigned will move this Court before Hon. Lawrence W. Pierce, D.J., in Room 2601 United States Courthouse, Foley Square, New York, New York on January 9, 1973, at 10 A.M. or as soon thereafter as counsel can be heard, for an order, pursuant to Rule 12 of the Federal Rules of Civil Procedure, dismissing the Amended Complaint herein in its entirety as against them on the ground that this Court lacks subject matter jurisdiction over the claims set forth therein; upon the ground that the defendants, State of New York and New York State Housing Finance Agency are not "persons" within meaning of the Civil Rights Act provisions set forth in the amended complaint; upon all the grounds set forth in the said defendants' answer sworn to November 7, 1972, and, as to the defendant State, more particularly, upon the ground set forth in the answer that the State of New York, one of the named defendants is immune from suit herein by reason of the provisions of the Eleventh Amendment to the Constitution of the United States.

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 9(c) of the General Rules of this Court, answering papers

and memoranda are required to be served at least three days before the return date of this motion.

Dated: New York, New York
December 21, 1972

Yours, etc.,

LOUIS J. LEFKOWITZ
Attorney General of the
State of New York
Attorney for Defendants
The State of New York and
New York State Housing
Finance Agency
Office & P. O. Address
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New York, New York 10013

By:

/s/ Daniel M. Cohen

DANIEL M. COHEN
Assistant Attorney General
Tel: (212) 488-3446

To:

[Names of Attorneys on Whom Served Omitted in Printing]

Notation to the Place in the Petitions for Certiorari Where Are Printed the Decisions Below and the Judgment Sought to be Reviewed

The opinion of the United States Court of Appeals for the Second Circuit is reprinted in the petition for writ of certiorari in No. 74-157 at Appendix A.

The opinion of the United States District Court for the Southern District of New York is reprinted in the petition for writ of certiorari in No. 74-157 at Appendix B.

The judgment of the United States Court of Appeals for the Second Circuit is reprinted in the petition for writ of certiorari in No. 74-157 at Appendix C.

Notation to the Place in the Petitions for Certiorari Where Is Printed the Order of the United States Court of Appeals for the Second Circuit Denying the Petition for Rehearing

The Order of the United States Court of Appeals for the Second Circuit Denying the Petition for Rehearing is reprinted in the petition for writ of certiorari in No. 74-647 at Appendix D.

Order of the United States Court of Appeals for the Second Circuit Denying Petition for Rehearing En Banc

UNITED STATES COURT OF APPEALS

SECOND CIRCUIT

[Title Omitted in Printing]

A petition for rehearing containing a suggestion that the action be reheard in banc having been filed herein by counsel for the appellees, and no active judge or judge who was a member of the panel having requested that a vote be taken on said suggestion,

Upon consideration thereof, it is

Ordered that said petition be and it hereby is DENIED.

IRVING R. KAUFMAN

s/ Irving R. Kaufman

Chief Judge

Notation Regarding the Distribution of the Second Circuit Appendix to the Justices

By agreement with the Clerk's office, copies of the Second Circuit Appendix are also being distributed for the convenience of the Court.

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

73-2613

MILTON and ELLEN FORMAN, et al.,

Plaintiffs-Appellants,

v.

COMMUNITY SERVICES, INC., et al.,

Defendants-Appellees.

APPENDIX

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KRIM & BALLON
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DOCKET ENTRIES

CIVIL DOCKET

UNITED STATES DISTRICT COURT

JUDGE PIERCE Jury Demand Date: 10/3/73 72 CIV. 3980

MILTON and ELLEN FORMAN, EARLE and PATRICIA McFIELD, MICHAEL and PHYLLIS SICILIAN, JACK and DIANE R. BLACKIN, CARL and ALMA TROST, ROBERT and PAULINE CARRINGTON, GILBERT and GLORIA NARINS, MURRAY and HELENE VICTOR, JEROME and LEONORE BAER, HAROLD ASNIN, JOSEPH S. and WANDA D. O'CONNOR, ABRAHAM and IRENE KOPOLSKY, RICHARD FERGUSON, HYMAN and BEATRICE FERTEL, HERMAN and MYRA ACKERMAN, BERNARD and VICTORIA SEINFELD, FRANK and HILDA GLASSMAN, WALTER SIMON, THOMAS D. and ELSA A. MacLEAN, MELVYN and GLORIA PLOTZKER, GARY and CHARLOTTE STERN, MAX and BETTINA SCHWARZHAUPT, HERMAN B. and ROSE GOLDBERG, STEPHEN and JUANITA REYNOLDS, ARTHUR and GERTRUDE LUCKER, ABRAHAM and HENRIETTE SCHENCK, REGINALD and ZENOBIA THOMAS, JOHN, JR. and ELISSA PYATT, ALBERT L. and RHODA ABRAMS, and JACK and PEARL HANDSCHUH, individually and on behalf of themselves and all others similarly situated, and in the right of RIVERBAY CORPORATION,

Plaintiffs,

-against-

COMMUNITY SERVICES, INC., UNITED HOUSING FOUNDATION, THE STATE OF NEW YORK, THE NEW YORK STATE HOUSING FINANCE AGENCY, HAROLD OSTROFF, ROBERT SZOLD, MILTON ALTMAN, GEORGE SCHECTER, ANTHONY MARINO, PAUL KRAMER, IRVING ALTER, JULIUS GOLDBERG and RIVERBAY CORPORATION,

Defendants.

Attorneys - For Plaintiff:

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New York City 10022 758-6700

For Defendant:

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Defts' N.Y.S. & N.Y.S. HOUSING FINANCE AGENCY

Sullivan & Cromwell (for Riverbay Corporation)
48 Wall St. NY 10005

Paul, Weiss, Rifkind, Wharton & Garrison
(for defts. Community Services, Inc., United Housing Foundation, Harold Ostroff, Robert Szold, Milton Altman, George Schecter, Anthony Marino, Irving Alter, Julius Goldberg and Paul Kramer) 345 Park Ave. NY 10022

Alan G. Blumberg
(for Szold, Altman, Alter)
30 Broad Street, NYC 10004 422 1777

S.E.C. Act of 1934

DATE	PROCEEDINGS
Sep. 19-72	Filed complaint and issued summons
Oct. 2-72	Filed summons with marshal's ret. Served Community Services, Inc. by Anthony Marion, on 9-25-72. United Housing Foundation, by Anthony Marion, on 9-25-72, State of New York, Atty. General, by Mortimer Sattler, on 9-20-72, New York State Housing Finance Agency, by Frederick Lerens, on 9-21-72, Robert Szold, by M. Altman, on 9-21-72, Irving Alter by M. Altman on 9-21-72, Julius Goldberg by personally on 9-25-72, Milton Altman, by personally on 9-28-72,

	Riverbay Corp., by Herbert Schnederman, on 9-22-72, Harold Ostroff, by Herbert Schnederman, on 9-22-72, George Schechter, by Herbert Schnederman, on 9-22-72, Anthony Marino, by personally on 9-25-72 Paul Kramer, by Unabe to serve on 9-25-72
Oct. 20-72	Filed stip. and order that the time for all defts' except Paul Kramer, to answer complaint is ext. to 11-10-72: and the time for the pltffs' move for and order determining whether the action be maintained as a class action be, ext. to 12-20-72. Pierce, J.
Oct. 25-72	Filed Amended Complaint
Nov. 20-72	Filed ANSWER of New York State Finance Agency and State of New York LJL
Nov. 21-72	Filed Stip. and order that the time for defts' Community Services, Inc. and other certain defts' listed, to answer complaint is ext. to 12-4-72; and the time for defts' State of New York and New York State Housing Finance Agency answer complaint is ext. to 11-20-72, etc. Pierce, J.
Nov. 21-72	Filed additional summons with marshal's ret. Served; Paul Dramer, by Mrs. Kramer on 11-8-72
Dec. 12-72	Filed stipulation and order extending deft. Riverbay Corp.'s time to answer or make any motion to 12/26/72. So ordered. Pierce, J.
Dec. 14-72	Filed ANSWER of Riverbay Corp. to complaint.
Dec. 19-72	Filed Notice of Motion Ret. 1/2/73 at 10AM in ROOM 2601 re: dismiss amended complaint.

Dec. 19-72	Filed Memorandum of Law in support of motion to dismiss.
Dec. 19-72	Filed Notice of Motion Ret. 1/2/73 at 10 AM in ROOM 2601 re: Prohibit pltfs. as indicated.
Dec. 19-72	Filed Memorandum of Law in support of motion to prohibit unsupervised communications with their class.
Dec. 21-72	Filed Defts. State of NY & NYS Housing Finance Agency. Re: Dismiss Amended Complaint. Ret. 1/9/73.
Dec. 21-72	Filed Dfts. Brief in support of motion to dismiss amended complaint.
Dec. 22-72	Filed Stip & Order that the time for dfts. Community Services, Inc., United Housing Foundation, Harold Ostroff, Robert Szold, Milton Altman, George Schecter, Paul Kramer, Anthony Marino, Irving Alter, Julius Goldberg & Riverbay Corp., to answer to complaint is extended to 12/19/72. (Received 12/18/72)
Dec. 26-72	Filed Notice of Appearance for dfts. Robert Szold, Milton Altman & Irving J. Alter.
Jan. 16-73	Filed Stip & Order that the dfts. exeepty Riverby Corp. to dismiss amended complaint is adjourned to 1/23/73. So Ordered Pierce, J.
Jan. 16-73	Filed Stip & Order of agreement, seeking among other things, to restrain & enjoin the collection of a 20% increase in carrying charges proposed to take effect as of 1/1/73 and a 12 1/2% increase in carrying charges proposed to take effect as of 7/1/74, etc. Pierce J.

Jan. 23-73	Filed Stip & Order that motions for dfts. Community Services, Inc. & United Housing Foundation, Harold Ostroff, Robert Szold, Milton Altman, George Schechter, Anthony Marino, Paul Kramer, et al to dismiss complaint is adjourned to 2/6/73. etc. So Ordered, Pierce.
Feb. 9-73	Filed Stip & Order that the ret. dates of motions by all dfts. except Riverbay Corp. to dismiss the amended complaint, etc. be adjourned to 2/27/73. So Ordered Pierce, J.
Feb. 28-73	Filed Stip & Order that the motion to dismiss the complaint by dfts. be adjourned to 3/13/73. So Ordered, Pierce, J.
Mar. 7-73	Filed Opinion #39281. Dfts. motion for an Order pursuant to FRCP 23 is granted, etc. Pierce J. (mailed notice)
Mar. 7-73	Filed Opinion #39286. Rider #1 RE: (1 of Order dated 3/6/73, with respect to communication between attys. for pltffs & members of the Co-op City Advisory council; As set forth in the explanatory portion herein, this Order is not intended to require prior Court approval for communications which can be characterized as atty.-client communication; it is intended to control communication with actual & potential class members not formal parties; as indicated; The exception for the lawyer-client communications will be read narrowly, Among the factors to be considered are the content of the communication, the means of communication, the compensation & size of the audience for the communication. So Ordered Pierce J. (mailed notice)
Mar. 20-73	Filed Dft's Reply Affidavit to Pltffs. Memorandum of Law & affidavits.
Mar. 20-73	Filed Reply Memorandum in support of motion to dismiss.

Apr. 1-73	Filed Supplemental Affidavit of George Berger to bring to the Court attention fact not aware. (for pltffs.)
Apr. 1-73	Filed Pltffs, rebuttal Memorandum in Opposition to motion to dismiss for lack of subject matter jurisdiction.
Apr. 5-73	Filed Opinion #39383. Ordered that all persons & organizations bound by 3/6/73 order, may deliver as indicated; further ordered that the request of Co-op City Times to reprint Orders; etc. is granted; ETC. Pierce J (M/N)------Also Rider attached to opinion #39383. Copy of Order dated 3/6/73. Pierce J. For the duration of this order, all requests to communicate, whether they are characterized as specific proposed communications, ETC. must be presented to this court for formal motion with notice, & include a proposed order. Such motions may be made returnable on an accelerated time schedule, to wit, 4 days from date of personal service & filing. So Ordered Pierce J. (M/N)
Apr. 6-73	Filed Notice of Cross Motion. Re: Summary Judgment, Amended Complaint, etc. ret. 2/6/73.
Apr. 6-73	Filed Reply Affidavit by Martin London in opposition to pending motion to prohibit unsupervised communication with prospective members of the class.
Apr. 6-73	Filed Application to establish an orderly & equitable schedule for consideration & disposition of the motions pending in this action by Dfts.
Apr. 6-73	Filed Pltffs, memorandum of law in opposition to dfts. (except Riverbay's) motion to dismiss the amended complaint & in support of pltffs motion to grant class action, etc.

Apr. 6-73	Filed pltffs. Amended & supplementary statement pursuant to rule 9(g)
Apr. 6-73	Filed affidavit in opposition to motion under Rule 23 FRCP by Jay F. Gordon.
Sep. 4-73	Filed Second Supplemental Affidavit by George Berger.
Sep. 6-73	Filed Opinion #39808 - The Complaint is therefore dismissed in its entirety for lack of subject matter jurisdiction. Pierce, J. (mailed notice)
Sep. 13-73	Filed Judgment. Ordered that defts. Community Services, Inc. et al. have judgment against the pltffs. Milton & Ellen Forman, et al., dismissing complaint. in its entirety. Clerk. (mailed notice)
Oct. 3-73	Filed pltffs notice of appeal from order of dismissal dated 9-6-73 - Mailed copies.
Oct. 3-73	Appeal Bond filed.
Oct. 17-73	Correcting Order filed by Judge Pierce.
Oct. 30-73	Stipulation to include missing documents filed.
Oct. 30-73	Notice of Cross-Motion with attachments filed.
Oct. 30-73	Plaintiff's Memorandum of law in opposition filed.
Oct. 30-73	Clerk Certificate certifying record filed.
Oct. 30-73	Record in 2 volumes hand carried - Ct. of Appeals and filed. RSB

DOCKET ENTRIES

DATE	NAME OR RECEIPT NO.	REC.	DISB.
9/19/72	Phillips, N.	$15-	
9/20/72	U.S.M.	✓	$15-
10/3/73	Phillips, N.	5-	
10/4/73	Treas.		5-

AMENDED COMPLAINT PAGES 9a-56a

See page 6 of the printed appendix preceeding this Second Circuit Appendix.

ANSWER OF THE STATE OF NEW
YORK AND NEW YORK STATE
HOUSING FINANCE AGENCY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

LOUIS J. LEFKOWITZ, Attorney General of the State of New York, appearing herein for the defendants, the State of New York and New York State Housing Finance Agency, in answer to the amended complaint, sworn to October 24, 1972, alleges:

FIRST: Denies the allegations of paragraph 1, insofar as it purports to set forth a basis for jurisdiction of plaintiffs' claims, particularly in relation to the defendants State of New York and the New York Housing Finance Agency.

SECOND: Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the paragraphs of the amended complaint numbered 2, 3, 4, 5, 8, 9, 10, 11, 13, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 54, 55, 56, 64, 67, 69, 70, 71, 72, 73, 75, 76, 77, 78, 79, 81, 82, 83, 84, 85, 88, 93, 94, 95, 96, 97, 99, 100 and 104.

ANSWER OF THE STATE OF NEW
YORK AND NEW YORK STATE
HOUSING FINANCE AGENCY

THIRD: Denies the allegations of paragraphs 6, 7, 14, 36 and 47 of the complaint; and refers the Court, instead, to the specific terms of the statute therein referred to as the Mitchell-Lama Act.

FOURTH: Denies knowledge or information as to the truth of the allegations contained in the paragraphs of the amended complaint numbered 12, 15 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 35, 53, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 68, 74, 78, 79, 80, 81, 82, 87, 88, 89, 90, 91, 94, 95, 96, 98, 99, 101, 102 and 103, except that he denies the allegations therein which refer to the State and Agency; and refers to any written instruments referred to therein for the terms thereof.

FIFTH: Denies knowledge of information as to the truth of the allegations contained in paragraph 50; except that he refers to General Business Law, § 352 for the terms thereof.

SIXTH: Denies the allegations of paragraphs 86 and 92 of the complaint.

BEST COPY AVAILABLE

FOR A FIRST AFFIRMATIVE AND
COMPLETE DEFENSE, ALLEGES:

SEVENTH: Defendants, State of New York, and New York State Housing Finance Agency, are not subject to the jurisdiction of this Court in this action.

FOR A SECOND AFFIRMATIVE AND
COMPLETE DEFENSE, ALLEGES:

EIGHTH: The said defendants are not "persons" within the meaning of the Civil Rights Act provisions which the plaintiffs set forth as a basis for jurisdiction.

FOR A THIRD AFFIRMATIVE AND
COMPLETE DEFENSE, ALLEGES:

NINTH: Any claims for damages predicated upon the allegations set forth in the complaint against the State should be presented for determination to the New York Court of Claims.

FOR A FOURTH AFFIRMATIVE AND
COMPLETE DEFENSE, ALLEGES:

TENTH: The State of New York and its Housing Agency are immune from suit herein by reason

of the provisions of the Eleventh Amendment to the Constitution of the United States.

FOR A FIFTH AFFIRMATIVE AND
COMPLETE DEFENSE, ALLEGES:

ELEVENTH: Denies that the defendants, State of New York and the State Agency ever issued any securities or that they constitute persons subject to the terms and provisions of Securities Exchange Act of 1934, §§ 10, 20 and 27 or any of the other provisions of the Securities Exchange Acts of 1933 or 1934 or the rules and regulations promulgated thereunder referred to in paragraph 1 of the amended complaint.

TWELFTH: Denies that the State or the Agency constitute persons within the meaning of the Civil Rights Act provisions set forth in paragraph 1 of the amended complaint.

FOR A SIXTH AFFIRMATIVE AND
COMPLETE DEFENSE, ALLEGES:

THIRTEENTH: This Court lacks subject matter jurisdiction over this action.

ANSWER OF THE STATE OF NEW YORK AND NEW YORK STATE HOUSING FINANCE AGENCY

FOR A SEVENTH AFFIRMATIVE AND COMPLETE DEFENSE, ALLEGES:

FOURTEENTH: The complaint fails to state a claim upon which relief can be granted.

FOR AN EIGHTH AFFIRMATIVE AND COMPLETE DEFENSE, ALLEGES:

FIFTEENTH: The claims herein are barred in whole or in part by applicable statutes of limitations.

FOR A NINTH AFFIRMATIVE AND COMPLETE DEFENSE, ALLEGES:

SIXTEENTH: The complaint fails to join herein indispensable parties.

WHEREFORE, judgment is prayed that the amended complaint herein be dismissed as to the defendants State of New York and New York State Housing Agency.

[Duly Verified by Daniel M. Cohen on November 17th, 1972]

LOUIS J. LEFKOWITZ
Attorney General of the State of New York
By s/ Daniel M. Cohen
DANIEL M. COHEN
Assistant Attorney General of the State of New York
Attorney for Defendants State of New York and New York State Housing Finance Agency

DEFENDANTS' NOTICE OF MOTION TO DISMISS AMENDED COMPLAINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

S I R S :

PLEASE TAKE NOTICE that upon the annexed affidavit of Harold Ostroff, sworn to December 19, 1972, and the exhibits annexed thereto, and upon the Amended Complaint herein, the undersigned will move this Court before Hon. Lawrence W. Pierce, D.J., in Room 2601, United States Courthouse, Foley Square, New York, N. Y. on January 2, 1973 at 10:00 A.M. or as soon thereafter as counsel can be heard, for an order, pursuant to Rule 12 of the Federal Rules of Civil Procedure, dismissing the Amended Complaint in its entirety as against them on the ground that this Court lacks subject matter jurisdiction over the claims set forth therein.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 9(c) of the General Rules of this Court, answering papers and memoranda are required to be served at least three days before the return date

of this motion.

Dated: New York, New York
December 19, 1972

Yours, etc.,

PAUL, WEISS, RIFKIND, WHARTON
& GARRISON

By s/ Martin London
Attorneys for Defendants Community
Services, Inc., United States
Housing Foundation, Harold Ostroff,
Robert Szold, Milton Altman, George
Schecter, Anthony Marino, Irving
Alter, Julius Goldberg and Paul Kramer
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(212) 935-8000

s/ Alan G. Blumberg
ALAN G. BLUMBERG
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TO: PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON
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SULLIVAN & CROMWELL
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DANIEL COHEN, ESQ.
Assistant Attorney General
State of New York
Attorney for State of New York
and New York State Housing Finance Agency
80 Centre Street
New York, New York 10003

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

HAROLD OSTROFF, being duly sworn, deposes and says:

1. I am a defendant in this action as well as President and a director of Riverbay Corporation, Executive Vice-President and a director of United Housing Foundation and President and a director of Community Services, Inc., all of which are named defendants herein. Since 1964, I have been closely involved in the planning, construction and operation of Co-op City, a low and low-middle income, state-financed cooperative housing development in the Bronx built under the New York State Private Housing Finance Law. Accordingly, I am fully familiar with the matters set forth in this affidavit, which I submit in support of the accompanying motion for an order dismissing the Amended Complaint for lack of subject matter jurisdiction.

A

AFFIDAVIT OF HAROLD OSTROFF
SWORN TO DECEMBER 19, 1972 -
IN SUPPORT OF MOTION TO DISMISS

2. Plaintiffs seek to invoke the jurisdiction of this Court by alleging in the First Count of the Amended Complaint that the defendants violated the anti-fraud provisions of the 1933 Securities Act and the 1934 Securities Exchange Act in their issuance of an allegedly misleading "Information Bulletin" to prospective residents of Co-op City. This claim is premised on the unstated assumption that the plaintiffs have purchased or subscribed for "securities" within the scope of the 1933 and 1934 Acts. As set forth in detail below, however, the plaintiffs have not purchased or subscribed for "securities" as defined or intended by the Federal Securities Acts. In short, plaintiffs' claim does not relate to "securities" cognizable by federal law and should neither have been brought in this Court nor used to bring before this Court 11 state law claims which properly belong in the State Court.

The Parties

3. The named plaintiffs are all residents of Co-op City. They allege claims individually, representatively on behalf of all of the more than 15,000 apartment owners in Co-op City and

derivatively on behalf of Riverbay Corporation, the Housing company which owns Co-op City.

4. Defendant United Housing Foundation, Inc. ("U.H.F.") is a non-profit corporation comprised of housing cooperatives, civic groups, labor unions and other non-profit organizations. Its primary purpose is to foster the growth of non-profit cooperative housing for low and low-middle income families. A copy of U.H.F.'s Certificate of Incorporation is annexed hereto as Exhibit A. Since its formation in 1951, U.H.F. has sponsored the largest and most successful cooperative housing developments in the City of New York. In addition to Co-op City, the largest apartment development in the United States, it has sponsored Rochdale Village in Queens, Amalgamated Warbasse Houses in Brooklyn, Penn Station South, Seward Park Houses and East River Houses in Manhattan and Amalgamated Houses in the Bronx, among others.

5. Defendant Community Services, Inc. ("C.S.I.") is a subsidiary of U.H.F. engaged as a general contractor and sales agent for U.H.F.

AFFIDAVIT OF HAROLD OSTROFF
SWORN TO DECEMBER 19, 1972 -
IN SUPPORT OF MOTION TO DISMISS

sponsored projects. Defendant Riverbay Corporation ("Riverbay") is the cooperative housing company organized by U.H.F. to own and operate Co-op City under the Mitchell-Lama law. The individual defendants named by plaintiffs are some of the officers and/or directors of U.H.F., C.S.I. and Riverbay.

6. Finally, plaintiffs have named the State of New York (the "State") and the New York State Housing Finance Agency (the "Agency") as defendants. The State, through its Division of Housing and Community Renewal, supervises the development, construction and operation of housing built under the Mitchell-Lama Law. The agency provides the necessary financing through its issuance of bonds secured by first mortgages on the housing developments.

The Pleadings

7. The original complaint in this action was filed on September 19, 1972. It contained six counts, one alleging violations of the federal securities laws and the remaining five alleging violations of the common law of the State of New York. Then, on October 24, 1972, plaintiffs served

an Amended Complaint setting forth 13 separate counts. As in the earlier complaint, only one count alleges violations of the Federal Securities Laws; ten are refinements of five earlier counts and two are entirely new. A copy of the Amended Complaint is annexed hereto as Exhibit B.

8. The basic claim set forth in the Amended Complaint is that the defendants misled subscribers for apartments in Co-op City by failing to disclose the full extent of construction costs of the development which would be borne by Riverbay and, ultimately, the residents through increased maintenance charges. Riverbay, they charge, has been improperly obligated by the defendants to pay approximately $110,000,000 more than originally intended or represented and the residents, accordingly, are now obligated to pay monthly maintenance charges in excess of what they originally contemplated.

9. The first count in the Amended Complaint sets forth this charge in the form of an alleged violation of the antifraud provisions of the Federal Securities Laws. Specifically, the plaintiffs allege that they purchased "securities"

in Riverbay on the basis of an "Information Bulletin" issued by Riverbay which contained false and deceptive representations with respect to potential increases in construction costs. Significantly, however, plaintiffs do not allege that the "securities" purchased are worth any less than what they paid for them.

10. With the exception of count nine, which is not here relevant,* the remaining 11 counts variously charge that the defendants engaged in fraudulent conduct and violated fiduciary duties and obligations owed to plaintiffs. All of these 11 counts are based upon alleged violations of State common and statutory law, jurisdiction for which is allegedly pendent to the federal claim alleged in count one.

11. On November 20, the State and the Agency served an answer denying the material allegations contained in the Amended Complaint and interposing a number of affirmative defenses, including the defense upon which this motion is based.

* Count 9 charges the New York State Housing Finance Agency with unspecified violations of plaintiffs' civil rights. None of the other defendants is included or even mentioned in that count.

A copy of that answer is annexed hereto as Exhibit C. The remaining defendants have, by stipulation, extended their time to move or answer through December 19.

Background

The Planning and Construction of Co-op City

12. The merits of this action are not before the Court on this motion. However, in order to provide the Court with a better understanding of the nature of the so-called "securities" subscribed to by plaintiffs, I would like briefly to review the facts surrounding the planning and construction of Co-op City.

13. Co-op City was conceived in 1964. It was at that time that responsible government officials, including the Governor of New York and the Mayor of New York City, decided that a large tract of land in the Bronx on which William Zeckendorf's Freedomland formerly stood would be an appropriate site for a massive low and low-middle income housing development. Not surprisingly, the non-profit U.H.F. was the vehicle to turn their vision into a reality.

14. Co-op City, as planned, constructed and operated, was and is a joint enterprise of the State, the City and U.H.F. Pursuant to the

Mitchell-Lama law, the State approves and supervises all aspects of the construction and operation of the development; the Agency provides the mortgage funds;* and the City provides partial tax abatements and required rezoning, remapping of streets and other municipal facilities.

15. In this enterprise the State plays an active supervisory role. All plans, budgets, contracts and other matters relating to the planning, construction and maintenance of the project are submitted to the Division of Housing and Community Renewal for review by the Commissioner's staff. Financial computations are submitted to his department of audit and finance. Construction estimates are submitted to his department of construction and there divided among his architectural, engineering and other departments. Insurance matters are referred to his insurance department, maintenance and operating

*The residents purchased their apartments at a price of only $450 per room, for a total of $32,699,700, as compared with a mortgage loan from the Agency of $375,775,710. The purchase price was not increased at any time and remains the same today.

costs go to the management departments and legal matters are sent to the office of his general counsel. These departments conduct thorough and on going reviews of all such matters and, on the basis of their recommendations, the Commissioner determines the propriety of practically every dollar spent. He also reviews and approves the initial carrying charge levels and all increases therein.

16. Preliminary planning between U.H.F., the State and the City took more than a year. Finally, on July 14, 1965, Riverbay Corporation, which had been organized by U.H.F., with the consent and approval of the State, to own and operate the development, purchased the Freedomland site for approximately $20 million, obtained mortgage funds from the Agency and commenced construction.

17. To guide Riverbay through the completion of construction and occupancy of the project, U.H.F. -- with the approval of the State -- designated a group of directors. These included, among others, Jacob Potofsky, President of the Amalgamated Clothing Workers Union; Louis Stulb erg, President of the International Ladies Garment Workers Union; Gerald

Coleman, now a member of the New York City Planning Commission and formerly Executive Secretary of the United Hatters, Hat & Millinery Workers Union; Albert Shanker, President of the United Federation of Teachers, and myself.

18. This group of directors so selected by U.H.F. was charged with the responsibility of steering Riverbay through years of intense planning and massive construction. More importantly, they were all singularly dedicated to produce, with not a cent of profit to anyone, the best possible housing at the lowest possible prices. This goal has been met. The quality of the housing at Co-op City is world renowned and the carrying charges remain substantially lower than housing currently being built or recently completed under the Mitchell-Lama program. Commissioner Urstadt of the State Division of Housing and Community Renewal recently noted that Mitchell-Lama housing now costs approximately $40,000 per unit.* This is to be contrasted with the $19,100 average unit cost for Co-op City.** Indeed, Co-op City's cost of

* The New York Times, November 26, 1972, Sec. 8, p. 1.
**If costs of land, landscaping, garage and commercial space are included, the per unit figure would be $27,206.

construction was less than that of public housing projects, although the quality of the housing at Co-op City is far superior.

The Increases in Construction Costs and Carrying Charges

19. At the core of this case is the complaint by the residents that they are paying monthly carrying charges in excess of what was originally estimated. This is so. Original estimates in 1965 put the average, per-room maintenance charge at a little over $23, excluding utilities. In 1967, prior to occupancy, these estimates were revised upward to approximately $25 per room. In 1968, again prior t occupancy, when it became apparent that skyrocketing costs would necessitate future increases, all prospective tenants were notified in writing that their monthly carrying charges would be raised during 1970-71. In 1970 carrying charges were raised to approximately $29 per room. Further increases are scheduled for 1973 and 1974. As I have noted above, however, there has been no increase in the purchase price of $450 per room, and none is anticipated.

AFFIDAVIT OF HAROLD OSTROFF
SWORN TO DECEMBER 19, 1972 -
IN SUPPORT OF MOTION TO DISMISS

20. What caused the increases in carrying charges? The answer is inflation -- the runaway inflation during the period 1965-70, not only as it affected the construction industry, but interest rates, real estate taxes and operating expenses, as well. In essence, we were required to estimate the state of the national economy, inflation, wage rates, interest rates, tax rates, and the progress of the Vietnam war, among other things, for a period into the future of more than five years. These judgments were made even more difficult because the proposed development had no precedent. Co-op City is the largest apartment complex in the United States. It contains 35 high-rise apartment buildings plus stores, garages and townhouses. The move-in of 15,000 families was itself a major undertaking, covering a period of 3-1/2 years from December 1968 to March 1972.

21. By reason of the inflationary pressures, it became necessary at several points to increase the monthly carrying charge estimates. This was done on each occasion with the full approval of the State and the Agency. Although I do not here want to comment upon plaintiffs' claims with respect to alleged

misrepresentation in the "Information Bulletins," it is appropriate to point out that in October 1968, when it became evident that monthly carrying charges would have to be increased in 1970-71, each and every cooperator was advised of this in writing. Riverbay's Board of Directors issued these notices so that those who could not afford to pay more than their share of the earlier estimates would not undertake the obligation to do so. We did not want them to purchase homes for which they could not afford to pay. A copy of this notice is annexed hereto as Exhibit D.

22. At the time of this 1968 notice, Co-op City was entirely unoccupied. Every cooperator was in a position to withdraw and receive an immediate refund of his purchase price--a policy and practice which was and still is uniformly applied, both as to residents occupying apartments and those waiting to do so. Indeed, today any member dissatisfied with the amount of monthly carrying charges can withdraw from occupancy and receive his money back in full.

23. The carrying charge increases complained of by the cooperators resulted from a runaway national inflation during the period of construction. However,

the cooperators were forewarned. Had they continued to live elsewhere, be it rental apartments or private houses, they would surely have faced the same--if not greater--increases. Indeed, it is because the costs of housing at Co-op City are so low--even with the increases--compared to other available housing that Co-op City continues to be deluged with thousands of applications which it cannot possibly hope to fill. There are now approximately 7,000 families on the waiting list for apartments at Co-op City--any one of which would be delighted to buy an apartment at $450 per room and pay the carrying charges complained of by plaintiffs.

The Hanks Case

24. Increased carrying charges at Co-op City have been litigated before. In June 1970, two residents of Co-op City, as officers of a tenants' organization, brought an individual and class action in State Supreme Court seeking to annul the approval of increased monthly carrying charges by Commissioner Urstadt of the Division of Housing. That suit, Hanks v. Urstadt, et al. (Index No. 8611/70) contained a welter of charges all to the effect that the increases

were illegal and improper, and that the cooperators had been falsely induced to purchase apartments by representations that their monthly carrying charges would not increase.

25. In answer to these charges, the State Division of Housing and Community Renewal and Riverbay Corporation presented to the Court substantial evidence detailing the costs of construction of Co-op City, and the propriety of the actions of the Divisions and Riverbay. On the basis of these submissions, Justice Grumet dismissed the petition, holding that Commissioner Urstadt's order approving the carrying charge increase was proper and reasonable:

> "The respondent Commissioner and his staff carefully reviewed the figures which went into the projected budget employed by the Riverbay board of directors in determining the increase in carrying charges. In conformity with his duties, mandated by law, the Commissioner made a thorough and complete analysis of the costs and projected costs and based upon those made his findings. In doing so, he had the assistance of his various bureaus which analyzed the estimated figures. Financial computations were passed on by the Bureau of Finance and Audit; construction estimates were submitted to the Bureau of Engineering and Construction as well as the Architectural Bureau; and costs of maintenance and operation went to the Bureau of Management.

> "The Commissioner fulfilled his statutory responsibility of making certain that the estimated revenues would be sufficient to pay all the charges as defined in section 26 of the Private Housing Finance Law. The increase in carrying charges resulted from the application for an increase in mortgage funds. The use of estimates in projecting the annual expense and income must be recognized as being a matter of best judgment based upon knowledge and experience of both the builders and the Commissioner. The Legislature has placed upon the Commissioner the responsibility of making such judgment."

26. Justice Grumet's decision was unanimously affirmed by the Appellate Division, First Department on November 9, 1971 (37 A.D.2d 1064 (1971)).

27. The Amended Complaint before this Court is, I respectfully suggest, a refurbished version of the Hanks petition dismissed by Justice Grumet more than two years ago.

The Purchase of an Apartment in Co-op City

28. Co-op City was conceived, constructed and is operated for the sole purpose of providing good, moderate-cost housing to low and low-middle income families. It is not a profit making enterprise and the thousands of cooperators who have secured

apartments at Co-op City were not making a business investment, rather, they were purchasing a right to reside in a Co-op City apartment in accordance with the provisions of the New York State Private Housing Finance Law.

29. Indeed, as yet, none of the plaintiffs or other members of the alleged class is a stockholder in the State financed, cooperative enterprise. As will be pointed out below, the stock in the cooperative corporation (Riverbay) cannot be issued until the development is completed and the Commissioner of the Division of Housing and Community Renewal issues a final Certificate of Acceptability. Based upon my experience in other Mitchell-Lama projects, I estimate that the issuance of such a Certificate by the Commissioner will not occur for at least another 18 months to 2 years.

30. The so-called "securities" purchased by the cooperators at Co-op City are but incidental by-products of the principal purpose of the transactions -- to secure a place of residence. The several agreements executed by the cooperators, the by-laws of the cooperative corporation and the pertinent provisions

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of the New York Private Housing Finance Law make this point indisputable.

The Subscription Agreement
and Apartment Application

31. The first document signed by a potential resident of Co-op City is a "Subscription Agreement and Apartment Application." A copy of this Agreement is annexed hereto as Exhibit E.

32. In the Agreement, the prospective resident subscribes to an amount of Class B stock in the cooperative corporation determined by the size of the apartment requested. A down payment is made and the subscriber agrees to pay the balance upon selection of a particular apartment.

33. In paragraph 3 of the Agreement the subscriber "applies for a non-proprietary occupancy agreement . . . which shall be for a term of not more than three years, which shall not be automatically renewable." This application for a three year lease is the very essence of the transaction.

34. Paragraph 4 provides that the cooperative corporation can terminate the subscription agreement and repay the subscriber under the terms and conditions

set forth therein. Paragraph 5 sets forth, in clear and unambiguous terms, the nature of the subscribers' position prior to issuance of the stock:

> "It is further understood, notwithstanding the full payment of the subscription price, that neither the stock subscribed for herein nor any other equity obligations of the Housing Company shall be issued or delivered until the aforesaid Project has been completed and a Certificate of Acceptability to the Housing Company has been issued by the Commissioner. UNTIL SO ISSUED AND DELIVERED, THE SUBSCRIBER SHALL NOT BE DEEMED TO BE A STOCKHOLDER NOR THE HOLDER OF ANY OTHER EQUITY OBLIGATION OF THE HOUSING COMPANY." (Emphasis added).

Thus, the plaintiffs in this action and every member of the alleged class is neither a stockholder nor the holder of any other equity interest in the cooperative corporation.

35. Paragraph 6 provides that the Agreement is non-assignable. Paragraph 7 provides for withdrawal by the subscriber and the terms and conditions for repayment of the amount paid in by the subscriber. No subscriber can or did make a profit when terminating his subscription agreement. Approximately 15,000 subscribers for apartments at Co-op City have withdrawn from their subscription

agreements and received full refunds of the amounts paid in.*

36. After the potential resident signs the subscription agreement, his application is submitted to the Commissioner, together with data relating to his family size, income, and credit references. The Commissioner must approve each individual applicant.

37. The provisions of the subscription agreement, taken collectively, show how remote such a transaction is from the ambit of "securities" as defined by federal law. The subscribers have, after submission to and approval by a state agency, secured the right, terminable by either side, to occupy an apartment at Co-op City under a non-proprietary lease for a three year term. They cannot make one penny of profit when the lease is terminated and they are, by express agreement, neither shareholders nor holders of any form of equity interest.

The Occupancy Agreement

38. When an apartment becomes available

*These withdrawals occurred during the years of waiting prior to occupancy of the project. The annual post-occupancy move-out rate is approximately 2%, or 300 families per year.

and the Commissioner has approved the application, the subscriber enters into an "Occupancy Agreement" with the cooperative corporation. A copy of the standard Occupancy Agreement is annexed hereto as Exhibit F. It should be noted that the prospective resident is referred to as "the member" (of the cooperative) rather than as a shareholder.

39. In form, the Occupancy Agreement is basically an apartment lease setting forth the rights, duties and obligations of the parties and providing for termination either through expiration of the term, breach or as otherwise provided therein. Unlike a lease, however, the Occupancy Agreement provides that upon its termination, the member shall sell his stock back to the corporation as set forth in the corporation's by-laws. Thus, we see again that a resident's ownership interest, this elusive "security," is wholly dependent upon occupancy of a Co-op City apartment.

40. Accordingly, a resident may be required to sell back his interest if, for example, he breaches his rental obligation or violates any of the other substantial rules and regulations contained in the

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lease. Moreover, the member may decide to move out upon expiration of the lease, or earlier.

41. Whatever event terminates the Occupancy Agreement, paragraph "Seventh" provides for disposition of the member's stock interest:

> "SEVENTH: Upon the termination of this Agreement at any time and in any manner in this Agreement provided, the Member agrees to sell to the Cooperative or such person or corporation as may be designated by the Cooperative all stock of the Co-operative owned or held by the Member at said time, in the manner and upon the conditions set forth in the By-Laws of the Cooperative and any indebtedness of the Member to the Cooperative may be applied on the purchase price. Nothing herein contained, however, shall be deemed to constitute an agreement on the part of the Cooperative to purchase said stock, it being the intent hereof that the Cooperative or its designee shall have the option to purchase the same as set forth in the By-Laws of the Cooperative."

The By-Laws

42. The provisions of the Occupancy Agreement quoted above refer to the By-Laws of the cooperative corporation for the terms and conditions of resale of the member's stock; Article VII of the By-Laws, a copy of which is annexed hereto as Exhibit G, sets forth these terms and conditions, the most pertinent of which is Section 3.A:

"SECTION 3. Restrictions of Transfers.

"A. No stockholder shall have the right or power to pledge, sell, alienate or otherwise dispose of any share or shares of the capital stock of the corporation without first offering said share or shares of stock for sale to the corporation or its designee FOR THE AGGREGATE SUM WHICH SUCH STOCKHOLDER PAID FOR SAID STOCK, NOT TO EXCEED THE PAR VALUE THEREOF."
(Emphasis added)

The par value and price paid are, in all cases, exactly the same.

43. In short, the member shall get back what he paid, and no more. To repeat what I said earlier; this is not a business or investment enterprise, either for the sponsors and developers or for the members. Nobody looks for capital appreciation or the chance to turn over a profit. The sole object is to provide decent, safe residences for low and low-middle income families at the lowest possible cost. And to permit a member to sell his stock or other interest for more than he paid would subvert this purpose. A published statement describing the rationale behind this policy forbidding speculative resale of co-op membership is annexed hereto as Exhibit H. It evolves from the basic tenets of the cooperative movement, dating back

to the pioneer experiment in Rochdale, England, in 1844.*

44. The remaining provisions of Article VII of the By-Laws set forth the manner in which the cooperative corporation shall exercise its option to purchase as well as the members rights in the event the corporation does not exercise its option to purchase. I should point out that in my extensive experience in U.H.F. housing built under the Mitchell-Lama law, it has been a consistent policy for the cooperative corporation always to repurchase the member's interest. In view of the fact that there are now approximately 7000 families on Co-op City's waiting list, it is clear that any current member will be able to resell his cooperative membership to Riverbay and recapture his exact original cost -- no more and no less.

---

* U.H.F. is not just interested in housing. It is devoted to the cooperative movement in all areas of consumer interest. It works closely with the Co-operative League of the United States, the International Cooperative Alliance to the United Nations, the New York State Consumer Assembly, Inc., the Federation of Cooperatives and other similar organizations.

45. Another provision of Riverbay's By-Laws bears directly on the issue of whether the member's interest is a "security." Section 6 provides, among other things, that "each stockholder shall be entitled to one vote for any and all purposes regardless of the number of shares held by such holder." In other words, every apartment -- whether it is a 7 room townhouse apartment represented by 126 shares or a 3 room apartment represented by 54 shares -- has a single vote in the affairs of the cooperative; the amount of stock owned is entirely irrelevant. This demonstrates once more that stock ownership in the cooperative is but a mere incident to the primary purpose of membership in the cooperative; the acquisition of a home.

46. Not only is the number of shares owned by a member irrelevant to his voting rights, it is also irrelevant to the amount of his monthly carrying charges. Those charges, which are set in the Occupancy Agreement, and not in the Subscription Agreement, are based upon the number of rooms, the type of apartment, its location, height, etc. The number of shares owned is based solely on the number of rooms in the apartment,

without regard to the other factors that affect the carrying charges. Accordingly, there are many members who own more shares than others but who are paying lower monthly carrying charges.

47. That stock ownership in this non-profit cooperative enterprise is but incidental to the acquisition of a home is apparent. In addition, there is another element that demonstrates the inapplicability of standards designed to protect the investing public in the commercial market place to the facts before this Court. I refer to the question of damage.

48. The values of the so-called "securities" in this case are fixed; cooperators get out what they have put in -- no more and no less. Despite all of the allegations of fraud and deceit set forth in the Amended Complaint, it is not alleged, or indeed could it be alleged, that the interests owned by plaintiffs are worth any less than what they paid for them. In fact, plaintiffs nowhere contend that the values of their "securities" are any less than such values on the day of subscription.

49. Instead, the relief plaintiffs seek with respect to the alleged federal claim relates

entirely to their carrying charges, both past and future, computed exclusively in accordance with their occupancy agreements. With regard to past carrying charges, plaintiffs want reimbursement of an amount attributable to the alleged wrongful increases in construction costs. And with regard to future charges, plaintiffs seek to reduce Riverbay's mortgage by an amount of the alleged wrongful increases. In short, they want to pay the carrying charges originally estimated in 1965; they want the Court to innoculate them against the virus of inflation. This kind of relief is, I believe, not available in a suit under the Federal Securities Acts based on alleged misrepresentations in the sale of "securities."

Summary

50. The foregoing, I believe, amply demonstrates that the rights secured to members of Co-op City are far beyond the pale of anything intended by Congress in passing the Securit[illegible]ws for the protection of investors in the comm[illegible]. market place. There was and is no possibility of speculation or trading in the marketplace. The pertinent facts show that:

(a) The members are not now stockholders nor the holders of any other form of equity interest;

(b) The members can purchase their interests only if first approved by the State;

(c) Members are granted the non-transferable right to enter into a three year non-proprietary apartment lease with the cooperative corporation;

(d) Prior to execution of the lease, either party can terminate the subscription agreement and receive the amounts paid in;

(e) Ownership of stock or subscription rights are entirely dependent upon occupancy of an apartment under an apartment lease. Termination of that lease, either through breach or expiration, obligates the member to offer to resell his stock or subscription rights to the cooperative corporation;

(f) Such resale to the corporation shall be at the same price the member paid for the stock, or subscription right. No profit can be made on resale;

(g) There shall be one vote per apartment in connection with the affairs of the cooperative, regardless of the number of shares owned;

(h) Monthly carrying charges as set forth in the Occupancy Agreements, are determined not by the number of shares owned but by other factors; and

(i) The value of the alleged "security" was entirely unaffected by the conduct complained of and no damages relating to that security are sought.

51. Each of these characteristics, I submit, removes this case from the scope of the Federal Securities Laws. What kind of "security" ownership, I may ask, is rescindable by either the seller or the buyer? What kind of "security" ownership is entirely dependent upon residence in a specific apartment? What kind of "security" can be purchased only after a state agency approves the purchaser? What kind of "security" ownership is terminable if the owner fails to pay his rent? What kind of "security" is owned

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in an entirely non-business, non-commercial context, where there is no speculation and no income, dividends, capital appreciation, profit or other investment motive and where the sole objective was and is to secure a moderate priced residence for oneself and ones family? The answer to these rhetorical questions is, I submit, apparent.

Conclusion

52. For all of the foregoing reasons, this Court should dismiss the Amended Complaint in its entirety as against the moving defendants for lack of subject matter jurisdiction.

s/ Harold Ostroff
Harold Ostroff

[Duly Sworn to
December 19th, 1972]

CERTIFICATE OF INCORPORATION
of
UNITED HOUSING FOUNDATION, INC.

(Pursuant to the Membership Corporation Law)

We, the undersigned, desiring to form a membership corporation pursuant to the Membership Corporation Law, do hereby certify and state as follows:

1. The name of the proposed corporation is United Housing Foundation, Inc.

2. This corporation is formed for the following charitable, scientific and educational purposes exclusively:

To improve the condition of the American people by voluntarily aiding and encouraging through charitable, scientific and educational methods (1) the development of adequate, safe and sanitary housing accommodations for wage earners and other persons of low or moderate income, (2) the elimination of substandard and unsanitary housing conditions; (3) the science of efficient and economical construction and operation of housing accommodations for wage earners and other persons of low or moderate income; (4) the dissemination of information of principles of consumer cooperation to wage earners and to other persons of low or moderate income; (5) the clearance, replanning, reconstruction and rehabilitation of urban slum areas by duly authorized private or governmental agencies and corporations, (6) duly authorized housing cooperative, and consumer cooperative and other agencies and corporations undertaking: (a) to plan, construct, operate or assist in the planning, construction or operation of such housing projects, or (b) to clear, replan, reconstruct, and rehabilitate urban slum areas, or (c) to carry on activities related or incidental thereto; (7) the dissemination of information pertaining to any of the foregoing.

It shall be within the purposes and powers of the corporation to use, as means to the above charitable, scientific and educational purposes: (a) the dissemination of educational information on the foregoing subjects by (1) printed matter; (2) lectures, forums and conferences; (3) research and scientific studies and (b) awards (c) the establishment and maintenance of agencies and corporations to further the above enumerated purposes (d) the voluntary assistance or support of other exclusively charitable, scientific and educational corporations; and further it shall be within the purposes and powers of the corporation to take all action which may be appropriate or useful to the furthering of the foregoing exclusively charitable, scientific and education purposes; subject, however, to such limitations as are provided by law.

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It shall not be within the purposes or powers of the corporation to engage in propaganda or otherwise attempt to influence legislation, and the corporation shall not, either as one of its purposes or as a means of accomplishing any of its purposes, engage in propaganda, or otherwise attempt to influence legislation.

The purposes of the corporation shall not include any of the purposes referred to in Section 11 of the Membership Corporations Law as such law appears on the date hereof.

3. The operations of the corporation are principally to be conducted within the State of New York.

4. The principal office of the corporation is to be located in the County and State of New York. The corporation may have other offices either within or outside the State of New York.

5. The corporation shall have power to take and hold by bequest, devise, gift, purchase, lease or other conveyance or as beneficiary of a trust but not as trustee, any property, real, personal or mixed, without limitation as to amount or value, except such limitation, if any, as may be imposed by the laws of this State; to convey such property or any part thereof subject to approval of the Supreme Court of the State of New York; and to invest and reinvest any principal and deal with and expend income and principal of the corporation in such manner as in the judgment of the directors will best promote its aforementioned purposes.

The corporation is empowered to accept gifts, conveyances and bequests and devises of property, real, personal or mixed, benefits of trust, but not as trustee -- for specific charitable, scientific or educational purposes, but no purposes which are not charitable, scientific or educational.

All the property or funds of this corporation, as well as all the income and proceeds derived therefrom or from trusts of which this corporation is a beneficiary shall be devoted exclusively to charitable, scientific or educational purposes.

Should the corporation at any time become incapacitated from further operating on the purposes for which it is organized, whether by voluntary or involuntary dissolution or otherwise, all its general funds and property as well as all of the income therefrom and additions thereto, shall be conveyed or transferred, assigned and set over as the Board of Directors may determine either (a) to a corporation or fund organized and operated exclusively for charitable, scientific or educational purposes, or (b) to a corporation or fund to be created exclusively for such purposes; and no funds or property of this corporation shall be distributed either directly or indirectly to any member, officer or director thereof or for any purpose whatsoever other than charitable, scientific or educational purposes, subject to the provisions of the Membership Corporation Law.

This corporation is not established and shall not be maintained, conducted or used for pecuniary profit. The income and the property of the corporation from whatever source derived shall be applied solely towards the promotion of the objects of the corporation as set forth above; and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or otherwise to the members, officers, directors or employees of the corporation; nor shall any part of the net income or earnings of this corporation enure to the profit or benefit of any member or private individual; provided that nothing in this certificate contained shall prevent the payment in good faith of reasonable and proper remuneration to any member, officer, director or employee of the corporation, or to any other person, in return for any services actually rendered to the corporation, or the payment of interest on money lent.

6. The number of directors of the corporation shall not be less than three nor more than fifteen.*

7. The names and residences of the directors to serve until the first annual meeting are:

NAMES	ADDRESSES
Percy S. Brown	40-A Harvard Street Laconia, New Hampshire
Abraham E. Kazan	98 Van Cortlandt Park, South Bronx 63, New York
Louis H. Pink	200 East 66th Street New York 21, New York
Robert Szold	334 Pelhamdale Avenue Pelham, New York
Frederick F. Umhey	185 Murray Avenue Larchmont, New York

8. All of the subscribers to this certificate are of full age; at least two-thirds of them are citizens of the United States; at least one of them is a resident of the State of New York; and of the persons named as directors, at least one is a citizen of the United States and a resident of the State of New York.

IN WITNESS WHEREOF, we have made, signed and acknowledged this certificate this 24 day of May, 1951.

/s/ Louis H. Pink

/s/ Shirley F. Boden

/s/ Frederick F. Umhey

/s/ Abraham E. Kazan

/s/ Robert Szold

* In June, 1966, the number of directors was increased to not less than 5 nor more than 20.

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EXHIBIT B - AMENDED COMPLAINT - ANNEXED TO AFFIDAVIT OF HAROLD OSTROFF

(Reproduced herein at pages 9a to 56a, supra.)

EXHIBIT C - ANSWER OF THE STATE OF NEW YORK AND THE NEW YORK STATE HOUSING FINANCE AGENCY - ANNEXED TO THE AFFIDAVIT OF HAROLD OSTROFF

(Reproduced herein at pages 57a to 61a, supra.)

CO-OP CITY

1968

a residential community cooperatively owned and operated

RIVERBAY CORPORATION
465 GRAND STREET / NEW YORK, N.Y. 10002 / OR 3-3900

HAROLD OSTROFF *President*
JACOB S. POTOFSKY *Vice President*
GEORGE SCHECHTER *Vice President*
LOUIS STULBERG *Secretary*
ROBERT SZOLD *Treasurer*

Dear Subscriber:

Re: Potential Rent Increase

Co-op City is being built during a period of severe inflation and all our costs, both for construction and operations, are being subjected to very heavy pressures. We are devoting all our efforts to minimize the impact of rising costs and are taking all steps possible to effectuate savings and to operate economically. There are, however, the following problems of which we believe you should be aware.

INTEREST CHARGES: In 1966 when Co-op City was first planned, interest rates were 3.75%. We estimated the availability of financing at 4% interest. In May, 1968 when our first permanent mortgage bonds were sold, the rate had risen to 5.2%. While rates are now declining slightly and we would estimate that the final average interest rate will be a little less, it is, nevertheless, higher than the original budgeted figure.

CONSTRUCTION COSTS: The contract price for Co-op City was negotiated within our anticipated budget figures. There are, however, escalations in regard to labor costs which will inevitably result in some construction cost increases. All construction projects also have many additional costs which arise during the construction period because of unforeseen conditions. These are subject to inflationary pressures. We would anticipate, therefore, that the final construction costs of Co-op City will be higher than the present projected costs.

REAL ESTATE TAX RATES: At the time the projected budget was prepared the tax rate was 5% of assessed value. We budgeted the rate of 5.5%, assuming that an earlier 1% per year increase would continue. In the 1968-1969 tax period the rate has already gone to 5.243%.

EXHIBIT D - NOTICE OF POTENTIAL RENT INCREASE -
ANNEXED TO AFFIDAVIT OF HAROLD OSTROFF

OPERATING COSTS: We would expect that with the present pressures for wage increases on the part of labor, all wage rates in future labor contracts will be increasing at a more rapid rate than in the past. We must assume also that the cost of all supplies and materials will be continuing to rise.

While we are alerting you to the above problem at this time, we will not need any increase before sometime during the period 1970-1971. Since prior to this period we are not obligated to start amortizing (repaying) our mortgage and will be paying only partial real estate taxes, we will have adequate cash income to meet all our obligations. We are therefore putting you on notice that sometime during the period of 1970-1971 your Board of Directors will be obligated to carefully evaluate all costs to determine the amount of the carrying charge increase which will be necessary so that the Cooperative can meet its obligations. We pledge to you that during this current period your officers and Board of Directors will be taking all possible steps to limit the amount of the increase but, nonetheless, an increase in carrying charges will be inevitable during 1970 or 1971.

In order to be certain that all members are fully aware and that there be no future misunderstanding, we request that you sign the attached statement indicating that you have read this memorandum and have been made aware that an increase in the carrying charges will be necessary during 1970-1971.

Cooperatively yours,

Harold Ostroff
President

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October 1968

EXHIBIT D - NOTICE OF POTENTIAL RENT INCREASE - ANNEXED TO AFFIDAVIT OF HAROLD OSTROFF

TO RIVERBAY CORPORATION

This is to acknowledge that I have received a copy of the memorandum regarding rent increases during the 1970-1971 fiscal year, that I have read this memorandum, and I understand the factors which may cause increases in the monthly carrying charges in effect at the time I take occupancy.

X_____

X_____

Account No._____

Building No._____

Apartment No._____

EXHIBIT E - SUBSCRIPTION AGREEMENT AND APARTMENT APPLICATION - ANNEXED TO THE AFFIDAVIT OF HAROLD OSTROFF

Application #_____

RIVERBAY CORPORATION

SUBSCRIPTION AGREEMENT AND APARTMENT APPLICATION
(Limited to Residents of the State of New York)

(1) I, (we) , hereinafter individually and collectively called the "Subscriber", hereby subscribe at the par value and principal amount thereof, to an aggregate of:

Amount	Type of Apartment	Description of Apartment	
$375	A	1 bedroom apartment with kitchen and living room, without balcony. (3 Rooms)	( )
$375	B	1 bedroom apartment with kitchen, dining room and living room, without balcony. (3½ Rooms)	( )
$400	C	1 bedroom apartment with kitchen, dining room and living room, with balcony. (4 Rooms)	( )
$425	D	2 bedroom apartment with kitchen, dining room and living room, without balcony. (4½ Rooms)	( )
$450	E	2 bedroom apartment with kitchen, dining room and living room, with balcony. (5 Rooms)	( )
$475	F	3 bedroom apartment with kitchen, dining room and living room, without balcony. (6 Rooms)	( )
$500	G	3 bedroom apartment with kitchen, dining room and living room, with balcony. (6½ Rooms)	( )
$500	H	3 bedroom town house apartment with kitchen, dining room and living room, with balcony. (7 Rooms)	( )

(Please check the size of apartment desired)

par value of Class B capital stock of RIVERBAY CORPORATION, hereinafter called the "Housing Company", a corporation organized under the Limited-Profit Housing Companies Law of the State of New York, for the purpose of acquiring land and constructing and operating

a housing project located in Baychester, Borough of The Bronx, City and State of New York, hereinafter called the "Project".

I, (we) warrant and represent that I, (we) are bona fide residents of the State of New York.

This Subscription Agreement, the construction and operation of the Project by the Housing Company and the rights of the Subscribers and of the stockholders of the Housing Company are subject to the provisions of the Limited-Profit Housing Companies Law and any rules and regulations promulgated thereunder, the provisions of the Housing Company's Certificate of Incorporation and By-Laws, any agreements which may be made or entered into with the State of New York, the New York State Housing Finance Agency, the City of New York, as well as any indenture of mortgage made by the Housing Company to the State of New York, the New York State Housing Finance Agency, and any and all other contracts, agreements, mortgages, leases, and other instruments, and any and all modifications, renewals and extensions thereof heretofore or hereafter entered into by the Housing Company. The terms of the said contracts, agreements, mortgages, leases and other instruments, and any and all modifications, renewals and extensions thereof, shall be determined by the Housing Company's Board of Directors in its discretion, subject to the approval of the Commissioner of Housing and Community Renewal (hereinafter called the "Commissioner").

(2) I, (we), agree to pay the full subscription price as set forth in paragraph (1) hereof on or before the signing hereof. Any deposit made by the Subscriber herein shall be first credited toward the total amount of capital stock subscribed for and due hereunder, and the balance, if any, credited toward the purchase of the other equity obligations referred to herein.

The total equity requirement for each type of apartment, as described in paragraph (1) hereof, is as follows:

Type A - $1,350
Type B - $1,575
Type C - $1,800
Type D - $2,025
Type E - $2,250
Type F - $2,700
Type G - $2,925
Type H - $3,150

The Subscriber herewith agrees to invest a further sum equal to the amount of the total equity requirement for his apartment less the subscription price paid hereunder, which further sum shall be paid in cash upon selection of the particular apartment of the type hereinabove set forth. Such additional equity investment shall be evidenced by such equity obligations as may be issued by the Housing Company in accordance with the Limited-Profit Housing Companies Law of the State of New York.

(3) The Subscriber hereby applies for a non-proprietary occupancy agreement for the type of apartment hereinabove set forth, which occupancy agreement shall be for a term of not more than three years, which shall be automatically renewable, unless terminated at the end of any three-year term by the Housing Company or the tenant-cooperator. Such occupancy agreement will fix the payments on account of the carrying charge to be made thereunder. It is contemplated that the average carrying charge per month per rental room exclusive of utilities for the entire project will not exceed Twenty-Nine and 14/100 ($29.14) Dollars with the particular apartment carrying charge varying in accordance with the schedule approved by the Commissioner. After

thirty (30) days' notice by the Housing Company to the effect that the apartment is available for occupancy, or upon acceptance of occupancy by the Subscriber, whichever is earlier, the Subscriber shall make a payment for carrying charges covering the unexpired balance of the month. Thereafter, the Subscriber shall pay carrying charges in advance on the first day of each month.

(4) The Housing Company reserves the right at any time before an occupancy agreement is entered into with the Subscriber, for any reason deemed sufficient by the Housing Company, in its sole discretion, subject to the approval of the Commissioner, to repay the amount paid to it by the Subscriber. In the event that such repayment shall be made prior to the selection by the Subscriber of a particular apartment, or in the event this subscription agreement and apartment application is not approved by the Commissioner, such repayment shall be made without interest. In the event that such repayment is made after the Subscriber shall have so selected an apartment, such repayment shall be made with interest thereon at the rate of 2% per annum from the date of such payments by the Subscriber. Upon any such repayment under this paragraph, all rights of the Subscriber under this agreement will cease and terminate.

(5) It is understood that the Project and the Housing Company will be operated as a cooperative enterprise. Each stockholder will be entitled to only one (1) vote on any and all matters regardless of the number of shares of capital stock or any other equity obligations of the Housing Company which the Subscriber may own.

It is further understood, notwithstanding the full payment of the subscription price, that neither the stock subscribed for herein nor any other equity obligations of the Housing Company shall be issued or delivered until the aforesaid Project has been completed and a Certificate of Acceptability to the Housing Company has been issued by the Commissioner. Until so issued and delivered, the Subscriber shall not be deemed to be a stockholder nor the holder of any other equity obligation of the Housing Company. Nothing herein contained shall be interpreted to prohibit the issuance of any stock, if required by law, to the sponsors of the Housing Company for organization and corporate purposes.

(6) Neither this Subscription Agreement nor the apartment application shall be assignable by the Subscriber.

(7) The Subscriber may withdraw from this agreement at any time prior to selecting the particular apartment which he desires to occupy, and shall, upon such withdrawal, be entitled to a refund, without interest, of all the amounts paid hereunder. After the Subscriber shall have selected an apartment the Subscriber may also withdraw from this agreement at any time prior to executing said occupancy agreement and shall, upon such withdrawal, be entitled to a refund, without interest, of all amounts theretofore paid as equity investment, but such refund shall not be paid by the Housing Company to the Subscriber until the total equity subscribed for herein is sold to another applicant and the apartment selected by the Subscriber has been assigned to such other applicant.

If the premises shall have been painted to the specifications of a withdrawing Subscriber and, as a result of such withdrawal, it will be necessary to repaint to make the apartment suitable for another Subscriber, the cost of such repainting shall be deducted from the deposit, such cost to be approved by the Commissioner.

(8) The Subscriber hereby acknowledges receipt of an "Information Bulletin" for Riverbay Corporation, that he has read the Information Bulletin as well as the other documents therein

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referred to and that he ratifies, approves and confirms the arrangements described in said Information Bulletin for the financing, construction and operation of the aforesaid Project and for the organization and administration of the Housing Company. In particular, Subscriber acknowledges that, as stated in said Information Bulletin, the harboring or keeping of any animals, including dogs, in apartments of the Housing Project shall not be permitted and shall constitute a violation of the Rules and Regulations of the Housing Company, subjecting the offending tenant to eviction from his apartment and/or other appropriate legal action.

(9) The Subscriber agrees that the apartment buildings shall be deemed duly and fully completed and the contract between the Housing Company and the Contractor duly and fully performed as soon as both of the following conditions are met:

(a) The final certificate of occupancy has been issued by the Department of Housing and Buildings of the City of New York;

(b) The Commissioner has issued his Certificate of Acceptability to the Housing Company.

The undersigned accordingly agrees when the aforesaid two events have occurred the same shall be conclusive proof that the Contractor has fully performed its contract with the Housing Company which is expressly authorized to pay to the Contractor all monies to which the Contractor may be entitled under its said contract with the Housing Company. The conclusiveness of the presumption that the buildings have been fully completed in accordance with the provisions of the Contractor's agreement with the Housing Company shall not be affected by the fact that as a condition of receiving the final payment on account of said contract, the Contractor may have agreed with the Housing Company and/or the State Division of Housing and Community Renewal to perform any work after the receipt of such final payment from which monies have been withheld.

(10) This Agreement, when executed shall supersede any and all prior agreements, oral or written, which may heretofore have been made between the parties.

Executed in duplicate this day of , 197 .

(Husband) _____ L.S.

As Joint Tenants with Rights of Survivorship

(Wife) _____ L.S.

_____
(Address)

Application # .....

Accepted:

RIVERBAY CORPORATION

By: _____

ACCOUNT NO. _____

BLDG. NO. & APT. NO. _____

CO-OP CITY
RIVERBAY CORPORATION

OCCUPANCY AGREEMENT

AGREEMENT made , between RIVERBAY CORPORATION, a corporation organized under the Limited-Profit Housing Companies Law of the State of New York, with its principal office at 465 Grand Street, New York, New York (hereinafter referred to as the "Cooperative"), and

(hereinafter referred to as the "Member");

WITNESSETH:

WHEREAS, the Cooperative has been organized for the purpose of constructing and operating a housing project in accordance with the provisions of the Limited-Profit Housing Companies Law; and

WHEREAS, the Member is within the class sought to be benefited by said law and is the owner of or has subscribed to shares of the capital stock of the Cooperative;

NOW, THEREFORE, in consideration of the premises and the mutual promises, covenants and conditions herein contained, the Cooperative and the Member covenant and agree as follows:

FIRST: The Cooperative hereby leases to the Member and the Member hereby hires and takes from the Cooperative the apartment known as Apartment No. in the building known as in the Borough of The Bronx, City and State of New York, to be used and occupied as a strictly private dwelling by the Member and his family, for a term to commence on the date that the leased premises are available for occupancy by the Member (of which date the Member shall be given at least thirty (30) days written notice) or the date of actual occupancy by the Member, whichever shall occur earlier, and to terminate on the day of , 19 , unless sooner terminated as hereinafter provided.

SECOND: The Member covenants and agrees to pay as an annual carrying charge, the sum of $
payable in advance in equal monthly installments of $
on the first day of each and every calendar month during the

term hereof. If only a part of a calendar month shall be included in the term hereof, then the carrying charges for such part shall be apportioned, and shall be due on the first day of such part. Said payments shall be deemed to be payments on account of the Member's annual obligation, which is hereby defined to be the Member's proportionate share of the operating costs of the Cooperative. The annual obligation of the Member for each year of the term hereof shall be finally determined by the Board of Directors of the Cooperative in the light of the year's operating experience. In the event that the revenues of the Cooperative shall exceed its operating costs, the Cooperative will pay or allow rebates to each member in the amount of his proportionate share of such excess, such rebates to be paid and allowed in such manner or in such form as from time to time the Board of Directors of the Cooperative, with the written approval of the Commissioner of Housing and Community Renewal of the State of New York (hereinafter referred to as the "Commissioner"), shall declare and determine. The Cooperative specifically reserves to itself the right, from time to time, to make application to the Commissioner for permission to increase the maximum average permissible carrying charges per month per rental room in accordance with the provisions of the Limited-Profit Housing Companies Law and the Member hereby consents thereto. Anything herein contained to the contrary notwithstanding, upon any such increase in such maximum average permissible carrying charges, the Member hereby covenants that the carrying charges payable by him hereunder shall be increased as of the effective date of such increase by the amount determined by the Commissioner as set forth on the revised rent schedule pertaining to the Project approved by the Commissioner in connection with such increase in such maximum average permissible carrying charge, and the Member hereby further covenants that he will pay such increased rental so determined by the Commissioner. Proportionate share, as used herein, shall mean that proportion which the carrying charge fixed herein bears to the total carrying charges paid by all members to the Cooperative.

The operating costs of the Cooperative, as used herein, shall include all expenses and outlays growing out of or connected with the construction, ownership, maintenance, and operation of the lands and buildings owned by the Cooperative and all facilities and activities connected therewith, which sum may include, among other things, taxes, assessments, water rents, sewer charges, insurance premiums, operating expenses, professional fees, salaries and wages, the cost of improvements, additions, alterations, replacements, and repairs, expenses and liabilities under or by reason of this or other occupancy agreements, interest on mortgage indebtedness, mortgage amortization payments, the payment of any other liens or charges, the payment of any deficit remaining from a previous period, the allocations to such reserve funds as may be reasonably required, and approved by the Commissioner, for replacement, vacancies, depreciation, obsolesence, bad debts, contingent losses or expenses or otherwise, the support and operation of community facilities and activities, and expenses for other purposes of the Cooperative. The Board of Directors of the Cooperative may include in the operating cost for any year any liabilities or items of expense which accrued or became payable in a previous year and also any sums which it may deem necessary or prudent to provide as a reserve against liabilities or expenses then accrued or thereafter to accrue.

THIRD: The Cooperative covenants and agrees:

1. To provide elevator service; hot and cold water in reasonable quantities at all times; air cooling at such times and at such temperatures as the Cooperative shall determine during the

warm seasons of the year; heat at reasonable hours during the cold seasons of the year; electricity; gas for cooking purposes; all of which is subject to the provisions of paragraph FIFTH (3) hereof.

2. To permit the Member peaceably and quietly to have, hold and enjoy the premises hereby leased, for the term aforesaid and subject to the terms hereof.

The aforesaid obligations of the Cooperative, and all other obligations of the Cooperative under this Agreement, are conditioned upon the Member paying the carrying charges and performing all the covenants and conditions hereof on the Member's part to be observed and performed.

FOURTH: The Member covenants and agrees:

1. To take good care of the leased premises and appurtenances and suffer no waste or injury and to repay to and reimburse the Cooperative, as and when the said repairs are needed and made by the Cooperative, the actual cost of all repairs in and about the leased premises occasioned or caused by the negligence, misuse, abuse, neglect or fault of or by the Member, his family, guests, servants, employees, visitors and licensees; all other repairs, except as provided in paragraph FOURTH (2) hereof, to be made by the Cooperative at its own cost and expense.

2. At the Member's own cost and expense, to redecorate and repaint, with paint of a type and quality reasonably satisfactory to the Cooperative, the leased premises at reasonable periods during the term of this Agreement and any extensions or renewals thereof, but not less than once every three years, and to maintain and keep in good repair and to replace when reasonably required all venetian blinds, shades, lighting fixtures, asphalt and vinyl tile flooring, ranges and refrigerators. The Cooperative shall not be required to make any of the repairs or replacements provided in this paragraph FOURTH (2) or to make any other repairs in, or to redecorate the leased premises, except as in this Agreement specifically provided.

3. To make no alterations, additions or improvements to the leased premises without the written consent of the Cooperative, and any such alterations, additions and improvements shall, at the option of the Cooperative, be the property of the Cooperative and shall be surrendered with the leased premises as a part thereof upon the termination of this Agreement. In the event the Cooperative does not exercise the foregoing option, the Member shall be obligated to remove such alterations, additions and improvements and to restore the leased premises to their original condition at the Member's own cost and expense.

4. Not to disfigure, deface or damage the leased premises or any other part of the buildings or suffer the same to be done; and not to do anything or suffer anything to be done upon the leased premises in a manner deemed extra hazardous thereby increasing the rate of fire insurance upon said building and not to permit the accumulation of waste or refuse matter.

5. To comply with all laws, ordinances and government regulations and the regulations of the New York Board of Fire Underwriters applicable to the leased premises.

6. To indemnify the Cooperative and save it harmless from any and all liability to person or property arising from injury occasioned wholly or in part by any act or omission of the Member or of his family, guests, servants, employees, visitors and licensees.

7. At the termination of this Agreement, and after inspection of the leased premises by the Cooperative, to repay the Cooperative the actual cost of repairing any and all injury occasioned by the installation or removal of furniture and property so as to restore the leased premises to their original state, reasonable wear and use excepted.

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8. At the end of the term hereof or any renewals or extensions thereof, to quit and surrender the leased premises in as good order or condition as they were at the beginning of the term, reasonable wear and use excepted, and to reimburse the Cooperative for the cost of restoring the leased premises to such order or condition, including, without limitation, the cost of plastering, structural changes, repairs, cleaning, and, subject to the limitations contained in the immediately following sentence, repainting of the apartment. If, in the judgment of the Cooperative, the apartment can be repainted to a white color with one coat of paint the Member shall not be obligated to reimburse the Cooperative for any such painting; but if, in the judgment of the Cooperative, more than one coat of paint is required to repaint the apartment to a white color, then the Member shall reimburse the Cooperative for the cost of all but the last coat of paint.

9. If the premises be not surrendered at the end of the term the Member will make good to the Cooperative any damage which it may suffer by reason thereof and will indemnify the Cooperative against all claims made by any succeeding Member against the Cooperative founded upon the delay by the Cooperative to deliver possession of the premises to the said succeeding Member so far as such delay is occasioned by the failure of the Member to so surrender the premises.

10. Not to sell, assign, transfer, mortgage, encumber or create any charge upon this Agreement, nor sublet the leased premises or any part thereof or cause the leased premises or any part thereof or suffer the same to be used for any business, commercial or professional purposes or for any purposes other than as a private dwelling apartment for and the primary residence of the Member and his immediate family. The Member further agrees that no boarders or permanent guests shall be permitted.

11. To permit the Cooperative to erect, use and maintain pipes and conduits in and through the leased premises as may be reasonably required and to permit the Cooperative to enter the leased premises, to examine the same and to make such decorations, repairs, alterations, improvements, or additions as may be reasonably required, and the carrying charges shall in no wise abate while said decorations, repairs, alterations, improvements or additions are being made because of the prosecution of any such work or otherwise.

12. To permit the Cooperative, for a period of ninety (90) days prior to the termination of this Agreement, to enter the leased premises during reasonable hours for the purpose of exhibiting the same to persons desiring to rent the same.

13. If the Member shall not be personally present to open and permit an entry into the leased premises, at any time when for any reason an entry therein shall be necessary and permissible hereunder, the Cooperative may enter the same by a duplicate key or may forcibly enter the same without rendering the Cooperative liable therefor (if during such entry the Cooperative shall accord reasonable care to the Member's property) and without in any manner affecting the Member's obligations under this Agreement.

14. Not to require, permit or allow any window in the leased premises to be cleaned from the outside in violation of Section 202 of the Labor Law or of the rules of the Board of Standards and Appeals or of any other board or body having or asserting jurisdiction.

15. Not to use the services provided to the Member under paragraph THIRD (1) hereof in unreasonable quantities or in a wasteful manner or in any manner other than those for which they were intended.

16. The Member and the Member's family, servants, employees, agents, visitors and licensees shall observe faithfully and comply strictly with the rules and regulations set forth at the end of this Agreement, and such other and further reasonable rules and regulations as are

heretofore or hereafter adopted by the Board of Directors or other duly elected body of the Cooperative. The Cooperative's written consent which may be required by any of said rules and regulations may be conditioned upon such terms and conditions, including the payment or payments by the Member of such sum or sums as may be set forth in such consent, which payments shall be deemed to be additional carrying charges due hereunder, and such consent shall be conditioned upon the Member's continued compliance with such terms and conditions. The Member further agrees that the violation of any of said rules and regulations is to be considered a violation of a substantial obligation of tenancy and occupancy.

17. The Member warrants the accuracy of the statements made in the application and income survey submitted by the Member for occupancy, and agrees that the family income, family composition and other eligibility requirements shall be deemed substantial and material obligations of his tenancy and occupancy; that he will comply promptly with all requests for information in regard to family composition or family income, and that his failure or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of his tenancy and occupancy; and agrees to pay surcharge rents in accordance with the schedule or schedules of surcharge rents approved by the Commissioner, which surcharges will be deemed to be additional carrying charges due hereunder.

FIFTH: The Cooperative and the Member mutually agree as follows:

1. The Cooperative shall not be liable for any damage to property entrusted to employees of the Cooperative nor for the loss of any property by theft or otherwise, it being expressly understood that no employee of the Cooperative is or shall be in any way authorized by the Cooperative to receive or hold for any Member any of the Member's property. The Cooperative shall not be liable for any injury or damage to persons or property resulting from falling plaster, steam, gas, electricity, water, rain or snow which may leak from any part of said building or from the pipes, appliances or plumbing works of the same or from the street or subsurface or from any other place or by dampness, unless caused by the negligence or carelessness of the Cooperative, its agents, servants, or employees.

2. This Agreement is subject and subordinate to all mortgages which may now or hereafter affect the real property of which the leased premises forms a part and to all renewals, modifications, consolidations, replacements and extensions thereof, and this Agreement shall not be a lien against said premises in respect of any mortgages that are now or that hereafter may be placed against said premises. The Member shall execute promptly any certificates that the Cooperative may request in confirmation of such subordination, and the Member hereby constitutes and appoints the Cooperative the Member's attorney in fact, to execute any such certificates for and on behalf of the Member.

3. No diminution or abatement of the carrying charges, or other compensation, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the building or its appliances nor for any space taken to comply with any law, ordinance or order of a governmental authority in respect to the various services herein agreed to be furnished by the Cooperative. It is agreed that there shall be no diminution or abatement of the carrying charges, or any other compensation, for interruption or curtailment of such services if such interruption or curtailment shall be due to accident, alterations or repairs desirable or necessary to be made or to inability or difficulty in securing supplies or labor for the maintenance of such service, or to some other cause, other than the negligence of the Cooperative, and no such interruption or curtailment of any such service shall be deemed a constructive eviction; provided that the Cooperative shall take reasonable measures to restore such services without

undue delay. The Cooperative shall not be required to furnish, and the Member shall not be entitled to receive, any of such service during any period when the Member shall be in default in respect to the payment of the carrying charges.

4. If a notice or notices of mechanic's lien be filed against the leased premises for labor or material alleged to have been furnished, or to be furnished, at the leased premises to or for the Member or for someone claiming under him, and if the Member shall fail to cause such lien to be discharged by bond or otherwise within 15 days after the filing of such notice or notices, the Cooperative may pay the amount of such lien or may discharge it by deposit, by bond or otherwise. In the event the Cooperative shall effect the discharge of the said lien or liens, the total expense incurred by the Cooperative in effecting such discharge shall be deemed an additional item to be included in the carrying charges payable by the Member for the leased premises and shall be due and payable by the Member to the Cooperative on the first day of the next following month. The receipt by the Cooperative of any installment of the regularly stipulated carrying charges hereunder or of any additional carrying charge shall not be a waiver of any other additional carrying charge then due.

5. The Cooperative shall not in any way have any responsibility to prevent, abate or cause the discontinuance of any noise or nuisance caused by other members or emanating from or existing in other apartments or locations in the buildings. The Cooperative shall cooperate in attempting to prevent, abate or cause the discontinuance of any such unreasonable noise or nuisance, but it shall not incur any liability for its failure to bring about any such prevention, abatement, or discontinuance, nor shall such failure affect or diminish any of the rights of the Cooperative or the obligations of the Member under this Agreement or be deemed a constructive eviction.

6. (a) If the Member shall default in fulfilling any of the covenants or conditions of this Agreement, other than the covenant for the payment of carrying charges or additional carrying charges, or shall fail or neglect to comply with any clause of any rule or regulation set forth at the end of this Agreement or heretofore or hereafter established as herein provided, or if the Cooperative shall in its judgment deem any conduct on the part of the Member objectionable or improper, or if the leased premises became vacant or deserted, the Cooperative may give to the Member ten (10) days notice of intention to end the term of this Agreement, and thereupon, at the expiration of said ten (10) days (if said default continues to exist) the term hereof shall expire as fully and completely as if that day were the day herein fixed for the expiration of the term and said term had not been renewed, and the Member will then quit and surrender the leased premises to the Cooperative but the Member shall remain liable as hereinafter provided.

(b) If the notice as provided for in (a) hereof shall have been given and the term shall expire as aforesaid; or if the Member shall make default in the payment of the carrying charges reserved herein or any part thereof or in the payment of additional carrying charges hereunder or any part thereof; or if the Member shall sell, encumber, assign or convey or otherwise lose title to all or any part of the stock of the Cooperative which he shall own; or if any execution or attachment shall be issued against the Member or any of the Member's property whereupon any of the Member's property upon the leased premises shall be taken or occupied or attempted to be taken or occupied by someone other than the Member; then and in any of such events the Cooperative may without notice, reenter the leased premises either by force or otherwise, and dispossess the Member and the legal representative of the Member or other occupant of the leased premises by summary proceedings or otherwise and remove their effects and hold the premises as if this Agreement has not been made, and the Member hereby waives the service of notice of intention to reenter or to institute legal proceedings to that end.

EXHIBIT F - OCCUPANCY AGREEMENT - ANNEXED
TO AFFIDAVIT OF HAROLD OSTROFF

(c) In case of any such default, re-entry, expiration and/or dispossess by summary proceedings or otherwise, (i) the carrying charge shall become due thereupon and be paid up to the time of such re-entry, dispossess and/or expiration, together with such expenses as the Cooperative may incur for legal expenses, attorneys' fees, brokerage and/or putting the leased premises in good order, or for preparing the same for re-rental; (ii) the Cooperative may re-let the premises or any part or parts thereof, either in the name of the Cooperative or otherwise, for a term or terms which may at the Cooperative's option be less than or exceed the period which would otherwise have constituted the balance of the term of this Agreement and may grant concessions or free carrying charges; and/or (iii) the Member or the legal representatives of the Member shall also pay the Cooperative as liquidated damages for the failure of the Member to observe and perform the Member's covenants herein contained, any deficiency between the carrying charges hereby reserved and/or covenanted to be paid and the net amount, if any, of the carrying charges collected on account of the occupancy agreement or agreements covering the leased premises for each month of the period which would otherwise have constituted the balance of the term of this Agreement. In computing such liquidated damages there shall be added to the said deficiency such expenses as the Cooperative may incur in connection with re-letting, such as legal expenses, attorneys' fees, brokerage and for keeping the leased premises in good order or for preparing the same for re-letting. Any such liquidated damages shall be paid in monthly installments by the Member on the carrying charge day specified in this Agreement and any suit brought to collect the amount of the deficiency for any month shall not prejudice in any way the rights of the Cooperative to collect the deficiency for any subsequent month by a similar proceeding. The Cooperative at the Cooperative's option may make such alterations and/or decorations in and to the leased premises as the Cooperative in the Cooperative's sole judgment considers advisable and necessary for the purpose of re-letting the leased premises; and the making of such alterations and/or decorations shall not operate or be construed to release the Member from liability hereunder as aforesaid. The Cooperative shall in no event be liable in any way whatsoever for failure to re-let the leased premises, or in the event that the leased premises are re-let, for failure to collect the carrying charge thereof under such re-letting. In the event of a breach or threatened breach by the Member of any of the covenants or provisions hereof, the Cooperative shall have the right of injunction and the right to invoke any remedy allowed at law or in equity as if re-entry, summary proceedings and other remedies were not herein provided for. Mention in this Agreement of any particular remedy, shall not preclude the Cooperative from any other remedy, in law or in equity. The Member hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of the Member being evicted or dispossessed for any cause, or in the event of the Cooperative obtaining possession of the leased premises by reason of the violation by the Member of any of the covenants and conditions of this Agreement or otherwise.

7. If the Cooperative shall be unable to give possession of the leased premises on the date of the commencement of the term hereof by reason of the fact that the premises are located in a building being constructed and which has not been fully completed to make the premises ready for occupancy or by reason of the fact that a Certificate of Occupancy has not been procured or by reason of the fact that the previous occupant of the leased premises has delayed in vacating said premises or the Cooperative has been delayed in preparing the leased

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premises for the Member after the previous occupant has vacated the same, or for any other reason, the Cooperative shall not be subject to any liability for the failure to give possession on said date. Under such circumstances the carrying charges reserved and covenanted to be paid herein shall not commence until the premises are available for occupancy by the Member, at which time the Member agrees to accept said premises, and no such failure to give possession on the date of commencement of the term shall in anywise affect the validity of this Agreement or the obligations of the Member hereunder, nor shall the same be construed in anywise to extend the term of this Agreement.

8. If the leased premises shall be partially damaged by fire or other cause without the fault or neglect of the Member, the Member's family, servants, employees, agents, visitors or licensees, the damages shall be repaired by and at the expense of the Cooperative, and the carrying charge until such repairs shall be made shall be apportioned according to the part of the leased premises which is usable by the Member. But if such partial damage is due to the fault or neglect of the Member, the Member's family, servants, employees, agents, visitors or licensees, the Member shall promptly reimburse the Cooperative for the cost of all such repairs, to the extent that such costs are not covered by the Cooperative's insurance, and there shall be no apportionment or abatement of the carrying charges. No penalty shall accrue for reasonable delay which may arise by reason of adjustment of fire insurance on the part of the Cooperative and/or the Member, and for reasonable delay on account of "labor troubles," or any other cause beyond the Cooperative's control. But if the leased premises are totally damaged or are rendered wholly untenantable by fire or other cause, and the Cooperative shall decide not to rebuild the same, or if the building shall be so damaged that the Cooperative shall decide to demolish it or to rebuild it, then or in any of such events the Cooperative may, within ninety (90) days after such fire or other cause, give the Member a notice in writing of such decision, and thereupon the term of this Agreement shall expire by lapse of time upon the third day after such notice is given, and the Member shall vacate the leased premises and surrender the same to the Cooperative.

9. If the whole or any part of the leased premises shall be taken or condemned by any competent authority for any public, or quasi public use or purpose, then, and in that event, the term of this Agreement shall cease and terminate from the date when the possession of the part so taken shall be required for such use or purpose. No part of any award for the leased premises shall belong to the Member. The current carrying charge, however, shall in such case be apportioned.

10. No act or thing done by the Cooperative or its agents during the term leased hereunder or any renewal or extension thereof shall constitute an eviction by the Cooperative, nor shall be deemed an acceptance of a surrender of the leased premises, and no agreement to accept such surrender shall be valid unless in writing signed by the Cooperative. No employee or agent of the Cooperative shall have any power to accept the keys of said premises prior to the termination of this Agreement, and the delivery of keys to any employee or agent of the Cooperative shall not operate as a termination of this Agreement or a surrender of the premises.

The failure of the Cooperative to seek redress for violation of, or to insist upon the strict performance of any covenant or condition of this Agreement, or any of the rules and regulations set forth herein or heretofore or hereafter adopted by the Cooperative, shall not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt by the Cooperative of carrying charges with knowledge of the breach of any covenant of this Agreement shall not be deemed a waiver of such breach. The failure of the Cooperative to enforce any of the rules and regulations, set forth at the end of this Agreement, or heretofore or hereafter adopted, against the Member or against any other member residing in the buildings shall not be deemed a waiver of any such rules and regulations. No provisions of this Agreement shall be deemed to have been waived by the Cooperative unless such waiver be in writing signed by the Cooperative. No payment by the Member or receipt by the Cooperative of a lesser amount than the carrying charges herein stipulated or such other amount as may be fixed pursuant to the provisions hereof shall be deemed to be other than on account of the payment of the earliest stipulated carrying charges, nor shall any endorsement or statement on any check or on any letter accompanying any check or payment of the carrying charges be deemed an accord and satisfaction, and the Cooperative may accept such check or payment without prejudice to its right to recover the balance of such carrying charges or pursue any other remedy in this Agreement provided.

11. The parties hereto hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Agreement and/or the Member's use or occupancy of said premises, except as otherwise provided in Section 259-c of the Real Property Law of the State of New York.

12. Except as otherwise in this Agreement provided, a bill, statement, notice or communication which the Cooperative may desire or be required to give to the Member, including any notice of expiration, shall be deemed sufficiently given or rendered if in writing delivered to the Member personally or sent by ordinary or registered or certified mail addressed to the Member at the building of which the leased premises are a part or left at said leased premises addressed to the Member, and the time of the rendition of such bill or statement and the giving of such notice or communication shall be deemed to be the time when the same is delivered to the Member, mailed or left at the premises as herein provided. Any notice by the Member to the Cooperative must be served by registered mail, addressed to the Cooperative at the address where the last previous carrying charge hereunder was paid.

13. If the Member shall default in the performance of any covenant on the Member's part to be performed by virtue of any provision in any article in this Agreement contained, the Cooperative may immediately, or at any time thereafter, without notice, perform the same for the account of the Member. If the Cooperative at any time is compelled to pay or elects to pay any sum of money, or do any act which will require the payment of any sum of money, by reason of the failure of the Member to comply with any provision hereof, or, if the Cooperative is compelled to incur any expense, including reasonable attorneys' fees, in instituting, prosecuting

and/or defending any action or proceeding instituted by reason of any default of the Member hereunder, the sum or sums so paid by the Cooperative with all interest, costs and damages, shall be deemed to be additional carrying charges hereunder and shall be due from the Member to the Cooperative on the first day of the month following the incurring of such respective expenses.

14. The covenants, conditions and agreements contained in this Agreement shall bind and enure to the benefit of the Cooperative, and its successors and assigns, and shall bind the Member, and the Member's heirs, distributees, executors and administrators.

15. This Agreement contains the entire agreement between the parties, and any agreement hereafter made shall be ineffective to change, modify or discharge this Agreement, in whole or in part unless such agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought.

16. In the event that the Member hereunder shall be more than one person, (a) the term "Member" as used herein shall be deemed to refer collectively to all such persons, (b) such persons shall be deemed to hold the leased premises as joint tenants with right of survivorship, and not as tenants in common, and (c) the liabilities and obligations of such persons hereunder shall be joint and several.

SIXTH: Unless sooner terminated pursuant to the provisions hereof, the term herein granted shall be extended and renewed from time to time by and against all the parties hereto for further periods of three (3) years each from the expiration of the term herein granted and any extensions and renewals thereof, upon the same covenants and agreements as are herein contained, unless either party shall serve a notice in writing upon the other of an intention to surrender or have possession of the leased premises, as the case may be, at least ninety (90) days prior to the expiration of said term granted herein or any extended term. The Cooperative agrees to give to the Member, not less than one hundred five (105) nor more than one hundred twenty (120) days prior to the expiration of the term herein granted and each extension and renewal thereof, written notice, delivered to the Member personally or mailed to him by registered or certified mail, of the provisions of this Article SIXTH.

SEVENTH: Upon the termination of this Agreement at any time and in any manner in this Agreement provided, the Member agrees to sell to the Cooperative or such person or corporation as may be designated by the Cooperative all stock of the Cooperative owned or held by the Member at said time, in the manner and upon the conditions set forth in the By-Laws of the Cooperative and any indebtedness of the Member to the Cooperative may be applied on the purchase price. Nothing herein contained, however, shall be deemed to constitute an agreement on the part of the Cooperative to purchase said stock, it being the intent hereof that the Cooperative or its designee shall have the option to purchase the same as set forth in the By-Laws of the Cooperative.

EXHIBIT F - OCCUPANCY AGREEMENT - ANNEXED
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EIGHTH: This Agreement is subject to the powers, rights and privileges, and the restrictions and limitations thereon, of the Cooperative as a Limited-Profit Housing Company under the supervision and control of the Commissioner pursuant to the Limited-Profit Housing Companies Law, and to the rights and powers of said Commissioner under said law or any amendments thereto, by all of which both parties hereto agree to be governed, and to all of which both parties hereto assent. This Agreement is further subject to all rules and regulations now or hereafter promulgated by the Commissioner.

RULES AND REGULATIONS

1. No clothes washing machines, clothes drying machines, electric stoves, air conditioning units or power equipment shall be placed or used in the leased premises.
2. No dishwashing machines or freezing units shall be placed or used in the leased premises without the Cooperative's prior written consent and only under such terms and conditions as the Cooperative may establish.
3. No alterations, additions or improvements shall be made to the balconies or terraces of the leased premises, including but not limited to the installation of screens or other enclosures thereon.
4. The leased premises and the balconies or terraces thereof may be painted only in accordance with the rules therefor established by the Cooperative.
5. The sidewalks, entrances, passages, courts, elevators, vestibules, stairways, corridors and halls must not be obstructed or encumbered or used for any purpose other than ingress and egress to and from the leased premises.
6. No signs, advertisements, lettering, notices, illumination, awnings, aerials, or other projections shall be exposed on, attached to or projected out of the outside walls of the building or the balconies, terraces, windows or entrance doors of the leased premises.
7. No baby carriages, velocipedes, or bicycles shall be allowed in elevators nor allowed to stand in the halls, passageways, areas or courts of the building.
8. Children shall not play in the lobbies, public halls, stairways, or elevators or on any of the exterior landscaped areas, except play areas designated for this purpose.
9. Supplies, goods and packages of every kind shall be delivered only at the entrance provided therefor, to the Member or to the Members' family, servants or agents, or in such manner as the Cooperative may provide and the Cooperative shall not be responsible for the loss or damage of any such property.
10. The laundry and drying apparatus of the Cooperative shall be used in such manner and at such times as the Cooperative may direct. The Member shall not dry or air clothes on the roof, balcony or terrace or out of windows.
11. The Cooperative may retain a duplicate key to the leased premises. No Member shall alter any lock or install a new or additional lock or knocker on any door of the leased premises.
12. No servants or employees of the Cooperative shall be sent out of the building by any Member at any time for personal purposes. No employee of the Cooperative shall be solicited or employed to do any work for any Member during such employee's working hours.
13. No Member shall allow anything whatever to fall from the windows or doors of the leased premises, nor shall sweep or throw from the leased premises any dirt or other substance into any of the corridors, halls, elevators, ventilators or elsewhere in the building.
14. No milk bottles, milk storage boxes, overshoes, packages or other articles shall be placed in the halls or on the staircase landings, nor shall anything be hung from the windows, terraces, or balconies, or placed upon the window sills, neither shall any linens, cloths, clothing, curtains, rugs or mops be shaken or hung from or on any of the windows, doors, balconies or terraces.
15. No door-to-door delivery of milk shall be permitted.
16. No Member shall make or permit any disturbing noises in the building by himself, his family, servants, employees, agents, visitors and licensees, nor do or permit anything by such persons that will interfere with the rights, comforts or convenience of other Members. No

Member shall play upon, or suffer to be played upon, any musical instrument or operate or suffer to be operated a phonograph, radio or television set in the leased premises between the hours of ten o'clock P.M. and the following eight o'clock A.M. if the same shall disturb or annoy other occupants of the building. No Member shall conduct or permit to be conducted, vocal or instrumental instruction at any time.

17. No radio or television aerial or other construction shall be erected on the roof, balcony, terrace, windows or exterior walls of the building. Any such radio or television aerial or construction may be removed by the Cooperative without notice and at the expense of the Member.

18. No dogs or other animals of any kind shall be kept or harbored in the leased premises.

19. The Member will faithfully observe the following procedures with respect to the use of the incinerator: (a) wrap dust, floor and powdered waste in compact packages before depositing the same; (b) thoroughly drain and wrap in paper all garbage before depositing the same; (c) refrain from forcing large bundles into the flue; (d) crush into tight bundles all loose papers before placing the same in the hopper door; (e) cause all bundles of waste to slide out of the hopper into the flue; (f) refrain from depositing waste of an explosive or inflammable nature or pressurized cans, paint or floor scrapings therein; (g) refrain from leaving any refuse outside the incinerator hopper in the public halls; (h) otherwise comply with all Fire Department regulations regarding the use of the incinerator.

20. The water-closets and other water-apparatus shall not be used for any purpose other than those for which they were constructed, nor shall any sweepings, rubbish, rags or any other improper articles be thrown into the same; and the cost of repair of any damage resulting from misuse thereof shall be borne by the Member by whom or upon whose premises it shall have been caused.

21. The Member agrees to indemnify and save harmless the Cooperative for any damage or injury to trees, shrubs, plants, street furniture and play equipment on the premises, caused by any member of his family, servants, employees, agents, visitors and licensees.

22. No person, other than employees of the Cooperative, shall enter upon or use the roofs of the building, except in case of emergency.

23. If a storeroom or storerooms are provided for the storage of carriages, bicycles, luggage and other property of the Members, such storeroom or storerooms shall be used only for the storage of items specified by the Cooperative and not prohibited by the Fire Department, Health Department, or other governmental agencies or by the Cooperative's insurance carrier or carriers. In no event shall any Member be permitted to store bedding or other inflammable items or material in such storeroom or storerooms. All items placed in such storeroom or storerooms by the Member shall be packaged and labeled in accordance with rules established by the Cooperative. The Members shall have access to such storeroom or storerooms only at such times as shall be specified by the Cooperative. The Cooperative accepts no obligation or responsibility with respect to any property stored in such storeroom or storerooms and shall not be liable for any loss of such property or damage or injury to person or property therein, unless caused by the negligence or carelesness of the Cooperative, its agents, servants or employees, and the Members shall place such property in such storeroom or storerooms at their own risk.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

X_____
Member, Lessee

RIVERBAY CORPORATION

By_____
Cooperative, Lessor

X_____
Member, Lessee

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BY-LAWS

CONFORMED COPY

of

RIVERBAY CORPORATION

Organized Pursuant to the Limited-Profit
Housing Companies Law

ARTICLE I

DECLARATION OF PURPOSES

SECTION 1. This corporation is organized under and pursuant to the Limited-Profit Housing Companies Law of the State of New York and with the approval of the Commissioner of Housing and Community Renewal.

The object of the corporation is to construct and operate adequate, safe and sanitary housing accommodations for persons of low income, in accordance with cooperative principles, subject to the provisions and limitations of the Limited-Profit Housing Companies Law and the Rules and Regulations promulgated by the Commissioner of Housing and Community Renewal.

ARTICLE II

STOCKHOLDERS MEETINGS

SECTION 1. The first meeting at which the stockholders of Class B Common Stock shall be entitled to vote shall not be held until the expiration of thirty days after the Commissioner

of Housing and Community Renewal, or his successor, shall have issued a Certificate of Acceptability to the Company, as provided in the Certificate of Incorporation. Written notice of such meeting shall be given as provided in Article II, Section 2 hereof.

SECTION 2. Annual Meetings. The annual meeting of the stockholders of the corporation, after the first meeting of Class B stockholders, for the election of Directors and for the transaction of other business of the corporation shall be held at the office of the corporation in the Borough of Manhattan, City and State of New York, or at such other place in the City of New York as may be designated in the notice of meeting, at 8:00 P. M. on the 1st day of October, if not a legal holiday; and if a legal holiday, then on the next secular day following. Written notice of the annual meetings shall be mailed to each stockholder entitled to vote at such address as appears on the stock book not less than 10 nor more than 40 days prior to the date of the meeting; but any meeting at which all stockholders shall be present, or at which all stockholders not present have waived notice in writing, notice as above specified shall not be required.

SECTION 3. The Commissioner of Housing and Community Renewal or his duly authorized representative shall be notified in writing of and shall have the right to attend all meetings of the stockholders of the Company.

SECTION 4. Special Meetings. Special meetings of the stockholders for any purpose or purposes may be called at any time by the President or the Commissioner of Housing and Community Renewal or his duly authorized representative, and shall be called by the President or Secretary at the request in writing of a majority of the Board of Directors or at the request in writing of 25% of the stockholders who shall require the Secretary or other officer of the corporation to give notice of such meetings. Written notice of such meeting, setting forth the time and place of the holding of such meeting and the object thereof, shall be mailed to each stockholder entitled to vote at such address as appears on the stock book not less than 10 nor more than 40 days prior to the date of the meeting, but any meeting at which all stockholders shall be present, or at which all stockholders not present have waived notice in writing, notice as above specified shall not be required.

SECTION 5. Quorum. The usual quorum for meetings shall be presence in person of one-third of the holders of the outstanding stock entitled to vote, except that if the notice of meeting states that there will be a matter on the agenda which requires a vote of a majority or more of the stockholders, then in such event the quorum shall be the presence in person or by proxy of the number of stockholders required for approval of such matter,

but a lesser number may adjourn from time to time without notice other than an announcement at the meeting in which the requisite number of stockholders shall not be present.

SECTION 6. Voting. At all meetings of the stockholders, all questions the manner of deciding which is not specifically regulated by statute or by these By-Laws shall be determined by a vote of the majority of the stockholders present at the meeting. Each stockholder shall be entitled to one vote for any and all purposes regardless of the number of shares held by such holder. All voting, other than for directors, shall be vive voce except as otherwise prescribed by statute or these By-Laws.

SECTION 7. Proxies. No stockholder shall be permitted to vote by proxy (other than a proxy given to his or her spouse) at any annual or special meeting of stockholders, unless the Board of Directors, by resolution duly adopted, shall approve in advance the use of proxies at such meeting of stockholders, as set forth in Section 5 hereof.

SECTION 8. Order of Business. At all meetings of the stockholders the following order of business shall be observed so far as consistent with the purposes of the meeting:

1. Calling the roll of persons entitled to vote.
2. Proof of notice of meeting.
3. Reports, respectively, of President, Treasurer and Secretary
4. Reports of committees, if any.
5. Election of directors.
6. Transaction of such other business as may properly come before the meeting.

ARTICLE III
DIRECTORS

SECTION 1. The original incorporators-directors shall continue to serve until the project has been completed and fully accepted as evidenced by a Certificate of Acceptability issued by the Commissioner of Housing and Community Renewal to the Company. Thereafter, the first meeting of all of the stockholders shall be held as provided in Article II, Section 2, at which time a new Board of Directors will be elected to serve as provided in Article III, Section 2. In the event of the death, resignation or incapacity of any of the original incorporators-directors, prior to such first meeting of all of the stockholders, his or their successors must be approved by the Commissioner of Housing and Community Renewal.

SECTION 2. Number and Term of Office and Qualifications. The number of directors shall be five, plus one additional director who may be designated by the Commissioner of Housing and Community Renewal, until the first annual meeting of stockholders after the issuance of the Certificate of Acceptability by the Commissioner of Housing and Community Renewal, and thereafter the number of directors shall be fifteen, plus such additional director. Directors need not be stockholders. The total number of directors, exclusive of the appointee of the Commissioner of Housing and Community Renewal shall be divided into three classes. At the first annual meeting of

stockholders, after the issuance of the Certificate of Acceptability by the Commissioner of Housing and Community Renewal, the three classes of directors shall be elected for terms respectively of one, two and three years. At each subsequent annual meeting of stockholders, directors shall be elected for terms of three years to replace the directors whose terms are expiring in that year. Each director, except the appointee of the Commissioner of Housing and Community Renewal, shall serve as such director, until his successor has been elected and has qualified. The director who is appointed by the Commissioner of Housing and Community Renewal shall serve as such director until his successor shall have been appointed by said Commissioner, and shall have qualified.

SECTION 3. Vacancies. Any vacancy occurring in the Board of Directors by reason of death, resignation, removal or otherwise of any director elected by the stockholders, or by reason of any increase in the number of members constituting the full Board of Directors, may be filled for the unexpired term by a majority vote of the remaining directors unless such remaining directors are not sufficient to constitute a quorum, in which case a special meeting of stockholders shall be called and such number of directors shall be elected as may be necessary to constitute the full membership of the Board.

SECTION 4. Meetings. Meetings of the Board of Directors may be held at any time upon call of the President, or

any two members of the Board, or the Commissioner of Housing and Community Renewal or his duly authorized representatives. Such meetings shall be held at the office of the corporation except as otherwise determined and fixed from time to time by the Board of Directors.

SECTION 5. Notice of Meetings and Waiver of Notice. Notice of each meeting of the Board, stating the time, place and objects thereof shall be given by mailing at least forty-eight hours before such meeting, or by telegraphing at least twenty-four hours before such meeting, a copy of such notice addressed to each director at his last known post office address. Notice may be waived in writing by any director. Any meeting at which all of the directors are present, or of which those directors who are absent have waived notice in writing, may be validly held without notice. The Commissioner of Housing and Community Renewal or his duly authorized representative shall be notified in writing of and shall have the right to attend all meetings of the Directors of the Company.

SECTION 6. Quorum. A majority of the Board of Directors shall constitute a quorum, and a majority of the members in attendance at any meeting of the Board shall, in the presence of a quorum, decide its action; a minority of the Board present at any meeting may, in the absence of a quorum, adjourn to a later date but may not transact any other business.

SECTION 7. Committees. The Board of Directors may, from time to time appoint from its members Committees with such powers and duties as it shall determine.

SECTION 8. Duties and Powers. The Board of Directors shall have entire charge of the property, interests, business and transactions of the corporation, and may adopt such rules and regulations for the conduct of its meetings and management of the corporation as it may deem proper, not inconsistent with law or these By-Laws. The Board of Directors may delegate to the officers of the corporation such powers and authority and assign to them such duties as the Board may deem necessary, proper or appropriate to the effective prosecution of the corporation's business.

ARTICLE IV

OFFICERS

SECTION 1. Election. The Board of Directors at its first meeting after the election of directors in each year shall elect from its number a President and shall also elect a Vice-President, a Secretary and a Treasurer. It may elect an Assistant Secretary and an Assistant Treasurer, and such other officers as in its discretion the needs of the corporation may from time to time require.

SECTION 2. Term of Office. All officers of the corporation shall be appointed to hold their respective offices during the pleasure of the Board of Directors, and any vacancy

occurring in the office of the President, Vice-President, Treasurer or Secretary or any other office shall be filled by the Board of Directors.

SECTION 3. President. The President shall preside at all meetings of the Board of Directors, and shall act as chairman at and call to order, all meetings of the stockholders. Subject to the supervision and direction of the Board of Directors, the President shall have the general management of the affairs of the corporation and perform all the duties incidental to his office.

SECTION 4. Vice-President. The Vice-President shall, in the absence, disability or incapacity of the President, have the powers and perform the duties of the President, and those which the Board of Directors may assign to him from time to time.

SECTION 5. Secretary. The Secretary shall keep the minutes of the meetings of the directors and stockholders; shall attend to the serving of notices of the meetings of the directors and stockholders; shall affix the seal of the corporation to such certificates, documents and papers as may require it, except that from time to time the Board of Directors may direct such seal to be affixed by any other officer or officers; shall have charge of the stock certificate book and of such other books and papers as the Board of Directors may direct; shall attend to such correspondence as may be assigned to him, and shall perform all the

other duties incidental to his office and those which the Board of Directors may from time to time designate.

SECTION 6. Treasurer. The Treasurer shall be the chief financial officer of the corporation and shall have the care and custody of all the funds and securities of the corporation and shall deposit the same in the name of the corporation in such bank or banks as the directors may designate subject to the approval of the Division of Housing and Community Renewal. He may be required by the Board of Directors to give such bonds as it shall determine for the faithful performance of his duties.

SECTION 7. Assistant Secretary and Assistant Treasurer. The Assistant Secretary and the Assistant Treasurer shall, respectively, in the absence, disability or incapacity of the officer to whom he is an assistant, have the powers and perform the duties of such officer, and shall perform such other duties as may be assigned to them from time to time by the Board of Directors. They may be required by the Board of Directors to give such bonds as it shall determine, for the faithful performance of their duties.

SECTION 8. Other Officers. Other officers shall perform such duties and have such powers as may be assigned to them from time to time by the Board of Directors.

SECTION 9. The Treasurer may at the same time hold the office of Secretary or Assistant Secretary but no other office in the corporation.

EXHIBIT G - BY-LAWS OF RIVERBAY CORPORATION -
ANNEXED TO AFFIDAVIT OF HAROLD OSTROFF

ARTICLE V

OPERATION OF THE PROJECT AS A COOPERATIVE

Subject to the provisions of statute, the corporation will operate the project which it will develop in the Borough of The Bronx, City and State of New York, as a cooperative and, in accordance therewith, shall pay, or allow, as and when determined by the Board of Directors, and approved by the Commissioner of Housing and Community Renewal after the payment of obligations, expenses, taxes and assessments, and the establishment of suitable reserves, a rebate or rebates of rent to each tenant cooperator in proportion to the rental payments made by him during the period in respect of which such rent rebate or rebates are allowed or paid. The monthly rentals paid by the tenant cooperators shall be deemed to be payment on account of their annual rental obligation, which shall be finally determined by the Board of Directorsin the light of each year's operating experience, subject, however, in all respects, to the approval of the Commissioner of Housing and Community Renewal. The right to determine the method of management of the Cooperative shall be subject to the approval of the Commissioner of Housing and Community Renewal.

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ARTICLE VI

SIGNATURE OF INSTRUMENTS

Checks, notes, drafts and orders for the payment of money and obligations of the corporation, and all contracts. mortgages,

deeds and other instruments, except as otherwise in these By-Laws provided, shall be signed by such officer, officers, individual or individuals as the Board of Directors may from time to time designate.

ARTICLE VII

CAPITAL STOCK

SECTION 1. Certificates. Certificates of stock shall be numbered and issued in consecutive order, shall be signed by the President or the Vice-President and by the Secretary or an Assistant Secretary or the Treasurer or an Assistant Treasurer, and sealed with the seal of the corporation; and in appropriate books of record shall be entered the name of the person owning the shares represented by each certificate, the number of shares and the date of issue. All certificates exchanged and returned to the Corporation shall be marked "Cancelled", with the date of cancellation by the President, a Vice-President, the Secretary or the Treasurer, and shall be filed among the corporate records of the corporation.

SECTION 2. Transfers. Shares represented by any certificate shall be transferable only as an entirety on the books of the corporation by the holder in person or by attorney, upon surrender of the certificate for such shares.

SECTION 3. Restrictions on Transfers.

A. No stockholder shall have the right or power to pledge,

sell, alienate or otherwise dispose of any share or shares of the capital stock of the corporation without first offering said share or shares of stock for sale to the corporation or its designee for the aggregate sum which such stockholder paid for said stock, not to exceed the par value thereof.

B. Such offer shall be made in writing, signed by such stockholder, and sent by mail to the corporation in a postpaid wrapper to the post office address of the corporation, at its principal place of business, and such offer shall remain good for acceptance by the corporation or a person designated by the corporation for a period of ninety days from the date of mailing such notice. Such offer shall constitute the corporation an agent for the sale of the shares of stock to the corporation or to such person as may be designated by the corporation.

C. If the corporation, or person designated by it, within the said ninety day period shall indicate that it, or the person designated by it, desires to purchase said shares of stock and shall give notice thereof in writing to the retiring stockholder, the latter shall be bound, within thirty days thereafter to transfer such shares and surrender his lease to the corporation or the person designated by the corporation, upon payment and receipt of the price herein provided.

D. In the eventthat the corporation or the person designated by the corporation shall not purchase said share or

shares of capital stock of the corporation within said ninety day period, then and in such event only, the stockholder shall have the right or power to pledge, sell, alienate or otherwise dispose of said share or shares of the capital stock of the corporation to any person acceptable to the corporation, and to the Commissioner of Housing and Community Renewal, provided such person shall, upon the transfer of said shares, enter into a non-proprietary lease with the corporation for the premises formerly occupied by the retiring stockholder for a term and upon the same terms and conditions contained in the non-proprietary lease between the stockholder and the corporation; the corporation will not, however, unreasonably withhold its acceptance of any person to whom the stockholder proposes to sell such shares as aforesaid.

In the event that the stockholder does not sell his stock to any person within six months after his right to do so has accrued, then and in such event he must again notify the corporation of his intent to transfer his shares and he shall again be bound by the provisions of Paragraphs A, B, C and D of this Article VII, Section 3.

E. If in any case the retiring stockholder, after becoming bound to sell, convey or transfer his shares to the corporation or such other person as may be designated by the corporation defaults in transferring said shares, the corporation or such other person as may be designated by the corporation shall, after notice

to and approval by the Commissioner of Housing and Community Renewal, hold the purchase money in trust for the retiring stockholder, or his executors, administrators or assigns and shall substitute the name of the purchaser upon the books of the company in place of the name of the retiring stockholder. After the name of the purchaser has been entered on the books of the corporation in the exercise of the aforesaid powers, the validity of the proceedings shall not be questioned by any person and the corporation or such other person as may be designated by the corporation shall be deemed and taken to be the owner of such shares.

F. In the event that the stockholder shall have defaulted in the payment of any obligation arising under his lease with the corporation or shall, apart from said lease, become indebted to the corporation, or in the event of the termination of the lease or the recovery of possession of the apartment by the lessor under any of the provisions of the lease, or in the event of the violation by the stockholder of any provisions of Article VII, Section 3 of these By-Laws, the stockholder shall forthwith surrender to the corporation the certificate representing the shares of capital stock of the corporation owned by the stockholder and upon the failure or refusal of the stockholder so to surrender said shares of stock, the same shall, after notice to and approval by the Commissioner of Housing and Community Renewal, be automatically cancelled and rendered null and void and the corporation may issue a

new certificate or certificates in their place and stead and such new certificate or certificates shall represent the same shares as were represented by the original certificate or certificates. The stock represented by the certificate or certificates so surrendered or by such new certificate or certificates may be sold by the corporation at public or private sale, without notice, and the proceeds applied toward all indebtedness of the stockholder, and the corporation shall remit any balance after payment of the expenses of sale to the stockholder, who shall remain liable for any deficiency.

G. No stockholder shall have the right or power to pledge or otherwise encumber any share or shares of the corporation which may have been issued by the corporation.

H. The provisions of this Article VII shall be binding upon any executor, administrator or other legal representative and successors and assigns of every stockholder. Any person, other than a surviving spouse, acquiring through will or descent, or by conveyance to take effect at death, any share or shares of the capital stock of the corporation shall be bound to offer the same for sale and transfer to the corporation upon the terms hereinabove set forth in this Article VII, Section 3 of the By-Laws.

I. The certificates of stock shall bear a legend to the effect that the right to pledge, encumber, sell, alienate or

otherwise dispose of the share or shares represented by such certificate is restricted as provided in this Article VII, Sections 2 and 3.

SECTION 4. The corporation shall be entitled to treat the holder of record of any share or shares of capital stock of the corporation as the holder in fact thereof, and shall not be bound to recognize any equitable or other claim to or interest in such share on the part of any other person whether or not it shall have express or other notice thereof, except as expressly provided by the laws of the State of New York.

SECTION 5. The corporation shall have a lien upon the shares of stock of any stockholder and upon all moneys due and owing by the corporation to any stockholder for any and all debts owed to the corporation by such stockholder. The Board of Directors may refuse to approve a transfer of any shares upon which the corporation has such a lien.

SECTION 6. As used in this Article the words "stock", "shares of stock" and "certificates of stock" shall include any interest in the corporation, and the word "stockholders" shall include the owner or holder of any such interest.

ARTICLE VIII

AMENDMENTS

These By-Laws may be amended, repealed or altered, in whole or in part, by vote of a majority of the stockholders of the

corporation at any duly called annual or special meeting of the stockholders, provided the proposed amendment is set forth in the notice of the meeting. The Board of Directors shall not alter or repeal any By-Laws adopted by the stockholders of the corporation, but may adopt additional By-Laws, in harmony therewith, which may be amended or altered by the stockholders at the next annual meeting or at a special meeting of the stockholders called for this purpose. Any and all amendments or changes of these By-Laws shall not take effect until approval thereof by the Commissioner of Housing and Community Renewal.

ARTICLE IX

SEAL

The seal of the Corporation shall be circular in form and shall bear the name of the corporation, the words "Corporate Seal", the year of incorporation and the words "New York" as follows:

Approved this 15th day of June 1965

s/ James Von Klemmer

COMMISSIONER OF HOUSING
AND COMMUNITY RENEWAL OF
THE STATE OF NEW YORK

Should Apartments Go To Highest Bidder?

When members move from Co-op City, why shouldn't they be permitted to sell their shares on the open market and make whatever speculative profit the market will allow?

In response to this question the following statement has been issued:

Co-op City is sponsored by the United Housing Foundation with the assistance of the State of New York, which provides the mortgage funds (about 90% of the cost) at reasonable interest rates, and the City of New York, which granted a very substantial tax abatement in order to make possible housing at the most reasonable cost possible for eligible persons whose incomes average about $8,000 per year and who do not exceed prescribed income limits.

In order to be certain that the cost of entering and living in Co-op City does not go beyond the means of the average citizen, the New York State Division of Housing, which supervises Co-op City, does not permit speculative resale of co-op membership. United Housing Foundation agrees with this point of view. The members of Co-op City have a good buy because of the non-profit construction (UHF receives no builders profit) and the help of the State and City. If shares are sold at market prices (very high today because of the extreme shortage of housing) those intended to be served could not join. Only higher income families could pay the initial cost. Those who could pay the cost would frequently be ineligible because of the legal income limits. The first group to suffer would be the senior citizen and the second, those reaching out from the depressed and ghetto areas of our city.

The member of Co-op City receives a very substantial return on his investment during the period of his occupancy through substantial monthly savings in the cost of his housing. (Just compare the cost of your new apartment in Co-op City, even after a 16% increase, with any other new housing under construction or planned today.) It is to preserve this benefit for those who need it tomorrow, as well as those fortunate to have it today, that speculation in this type of housing is not permitted.

The rule is quite different for cooperatives built by speculators. Co-op City is designed to serve people, not to be a source of exploiting them. It is because this has worked well for over forty years that our members feel secure in their investment and why not one, but two and three generations of cooperators live in UHF cooperatives. Senior citizens, children of cooperators, newlyweds, and those of limited means can look forward with some hope for possible apartments from waiting lists fairly maintained, rather than making apartments available to the highest bidder and only to those who can afford to pay the highest price.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

S I R S :

PLEASE TAKE NOTICE that, upon all the papers heretofore filed herein, the undersigned will move this Court before Hon. Lawrence W. Pierce, D.J., in Room 2601 United States Courthouse, Foley Square, New York, New York on January 9, 1973, at 10 A.M. or as soon thereafter as counsel can be heard, for an order, pursuant to Rule 12 of the Federal Rules of Civil Procedure, dismissing the Amended Complaint herein in its entirety as against them on the ground that this Court lacks subject matter jurisdiction over the claims set forth therein; upon the ground that the defendants, State of New York and New York State Housing Finance Agency are not "persons" within meaning of the Civil Rights Act provisions set forth in the amended complaint; upon all the grounds set forth in the said defendants' answer sworn to November 7, 1972, and, as to the defendant State, more particularly,

NOTICE OF MOTION BY THE
DEFENDANTS, STATE OF NEW YORK
AND NEW YORK STATE HOUSING
FINANCE AGENCY, TO DISMISS
AMENDED COMPLAINT

upon the ground set forth in the answer that the State of New York, one of the named defendants is immune from suit herein by reason of the provisions of the Eleventh Amendment to the Constitution of the United States.

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 9(c) of the General Rules of this Court, answering papers and memoranda are required to be served at least three days before the return date of this motion.

Dated: New York, New York
December 21, 1972

Yours, etc.,

LOUIS J. LEFKOWITZ
Attorney General of the
State of New York
Attorney for Defendants
The State of New York and
New York State Housing
Finance Agency
Office & P. O. Address
80 Centre Street
New York, New York 10013
By:

/s/ DANIEL M. COHEN
DANIEL M. COHEN
Assistant Attorney General
Tel: (212) 488-3446

NOTICE OF MOTION BY THE
DEFENDANTS, STATE OF NEW YORK
AND NEW YORK STATE HOUSING
FINANCE AGENCY, TO DISMISS
AMENDED COMPLAINT

TO: PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON, ESQS.
477 Madison Avenue
New York, New York 10022

SULLIVAN & CROMWELL, ESQS.
48 Wall Street
New York, New York

PAUL, WEISS, RIFKIND, WHARTON & GARRISON, ESQS.
345 Park Avenue
New York, New York 10022

ALAN G. BLUMBERG, ESQ.
30 Broad Street
New York, New York 10004

NOTICE OF CROSS-MOTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

S I R S :

PLEASE TAKE NOTICE that, upon the annexed affidavits of Milton Forman and Jay F. Gordon, both duly sworn to on January 30, 1973, the exhibits annexed thereto, and the pleadings herein, the undersigned will, on February 6, 1973, the return date of the defendants' motion herein, at 10:00 a.m. or as soon thereafter as counsel can be heard, cross-move this Court before Hon. Lawrence W. Pierce, in Room 2601, United States Courthouse, Foley Square, New York, N. Y. for an order:

1. Pursuant to Rule 23, FRCP, granting class action status to Counts First through Ninth of the Amended Complaint.

2. Pursuant to Rule 56, FRCP, granting summary judgment to plaintiffs on the First, Fourth, Fifth, Ninth and Tenth Counts of the Amended Complaint on the issue of liability only and dismissing all defenses applicable thereto.

3. Pursuant to Rule 65, FRCP, granting a preliminary injunction restraining the collection of any increase in carrying charges in excess of those which were in effect on December 31, 1972.

4. Granting plaintiffs such other and further relief which this Court may deem proper.

Dated: New York, N.Y.
February 1, 1973

Yours, etc.,

PHILLIPS, NIZER, BENJAMIN,
KRIM & BALLON

By s/ George Berger
A Member of the Firm

Attorneys for Plaintiffs
477 Madison Avenue
New York, N. Y. 10022
758-6700

TO: PAUL, WEISS, RIFKIND, WHARTON
& GARRISON
Attorneys for Defendants
Community Services, Inc.,
United Housing Foundation,
Harold Ostroff, Robert Szold,
Milton Altman, George Schechter,
Anthony Marino, Paul Kramer,
Irving Alter and Julius Goldberg
345 Park Avenue
New York, N. Y. 10022
935-8000

HON. LOUIS J. LEFKOWITZ
ATTORNEY GENERAL OF THE STATE
OF NEW YORK
Attorney for the State of New York
and New York State Housing
Finance Agency
80 Centre Street
New York, N. Y. 10022
488-3446

SULLIVAN & CROMWELL
Attorneys for Defendant Riverbay Corporation
48 Wall Street
New York, N. Y. 10005
422-8100

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

STATE OF NEW YORK)
: SS:
COUNTY OF NEW YORK)

JAY F. GORDON, being duly sworn, deposes and says:

1. I am a member of the firm of Phillips, Nizer, Benjamin, Krim & Ballon, attorneys for the plaintiffs in this action. I make this affidavit in opposition to the defendants' motion to dismiss the amended complaint and in support of the plaintiffs' cross-motion for an order:

(a) granting class action status to the first nine counts of the amended complaint;

(b) granting summary judgment to the plaintiffs on the issue of liability only, with respect to the first, fourth, fifth, ninth and tenth counts of the amended complaint; and

(c) enjoining pendente lite the collection by defendant Riverbay Corporation ("Riverbay") of any carrying charges in excess of those which were in effect on December 31, 1972.

AFFIDAVIT OF JAY F. GORDON SWORN
TO JANUARY 30, 1973 - IN OPPOSITION
TO DEFENDANTS' MOTIONS AND IN SUPPORT
OF CROSS-MOTION

THE FACTS

2. My firm was first consulted in late October, 1971 with respect to the grievances which ultimately gave rise to this litigation. At that time I met with various members (including some of the above-named plaintiffs) of the Co-op City Advisory Council, which represented all of the tenant-shareholders of Co-op City, a Mitchell-Lama cooperative housing project of more than 15,000 apartments in Bronx County, New York. They complained of skyrocketing increases in their carrying charges, alleged defects in construction and various other suspected scandals and abuses. As it developed, however, they were wholly unaware of the frauds and other wrongs, later detailed in the amended complaint herein, which had been practiced upon them and their fellow subscribers to the stock of Riverbay. Those facts, as alleged in the amended complaint and detailed and documented in support of this cross-motion, came to light only after our initial discussions, the subsequent retainer engagement of my firm and the investigation which we conducted, as hereinafter set forth.

3. I inquired as to the manner in which they had become interested in Co-op City and had become subscribers to the stock of Riverbay, the cooperative corporation. I was told that they had responded to newspaper advertisement and had then received, by mail, certain sales pamphlets or brochures, together with application forms.

4. In response to my request for copies of these items, I finally received, in late January, 1972, an "Information Bulletin", dated May 15, 1967, which stated that it was a revision of a prior May 12, 1965, "Information Bulletin". Since the "Information Bulletin" had all the earmarks of a stock prospectus, it became necessary to determine that it was authentic and whether any others had been circulated and used in connection with the sale of Riverbay stock. Accordingly, I requested the New York State Executive Department's Division of Housing and Community Renewal (which the "Information Bulletin" said was "supervising" Co-op City) to supply me with a copy of each such document which was on file. In response to my request, I received a letter, dated February 4, 1972 (copy of which is annexed hereto as Exhibit

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"1") and the enclosures referred to therein. Annexed hereto as Exhibits "2" and "3", respectively, are copies of the "1965 Information Bulletin" and "1967 Revised Information Bulletin", which were enclosed with said letter. A copy of the third enclosure, the "1968 Letter re: Increase in Carrying Charges" has already been annexed as Exhibit D to the moving affidavit of the defendant Harold Ostroff.

5. Thereafter, with the consent of the Commissioner and by arrangement with representatives of the Division's Bureau of Finance, I made several visits to the Bureau's offices at 393 Seventh Avenue, New York City and I was permitted to examine various documents on file in connection with the Co-op City project. I then requested and received copies of specified documents from the Division of Housing and Community Renewal's files. Copies of some of those documents are annexed hereto, as follows:

Exhibit "4" - Construction Contract, dated June 18, 1965, between Community Services, Inc. ("Community"), as Contractor and Riverbay, as Owner;

Exhibit "5" - Modification No. I, dated April 14, 1967, of said Construction Contract;

Exhibit "6" - Modification No. II, dated January 22, 1968, of said Construction Contract;

Exhibit "7" - Modification No. III, dated March 29, 1968, of said Construction Contract;

Exhibit "8" - Modification No. IV, dated October 9, 1969, of said Construction Contract;

Exhibit "9" - Modification No. V, dated July 7, 1971, of said Construction Contract;

Exhibit "10" - Building Loan Agreement, dated July 15, 1965, between New York State Housing Finance Agency (the "Agency"), as Lender and Riverbay, as Borrower;

Exhibit "11" - Modification Number One, dated April 14, 1967, of the Building Loan Agreement;

Exhibit "12" - Modification Number Two, dated February 3, 1969, of the Building Loan Agreement;

Exhibit "13" - Modification Number Three, dated October 9, 1969, of the Building Loan Agreement;

Exhibit "14" - Modification Number Four, dated July 7, 1971, of the Building Loan Agreement;

Exhibit "15" - Sales Agency Agreement, dated June 18, 1965, between Riverbay, as Owner and Community as Agent;

Exhibit "16" - Modification of Sales Agency Agreement, dated April 14, 1967;

Exhibit "17" - Modification Number II, dated October 9, 1969, of Sales Agency Agreement;

Exhibit "18" - Administrative Service Agreement, dated June 18, 1965, between Riverbay, as Owner and Community, as Agent;

Exhibit "19" - Modification of Administrative Service Agreement, dated April 14, 1967;

Exhibit "20" - Modification Number II, dated October 9, 1969, of Administrative Service Agreement;

Exhibit "21" - Letter, dated June 16, 1965, from Community to Mr. Paul Belica, Executive Director, State Housing Finance Agency, containing handwritten endorsement on the face thereof, with December 31, 1964 unaudited balance sheet of Community attached;

Exhibit "22" - Letter, dated June 18, 1965, from Community to New York State Division of Housing and Community Renewal;

Exhibit "23" - Letter, dated June 18, 1965, from Riverbay to New York State Division of Housing and Community Renewal;

Exhibit "24" - Riverbay Rent Schedule and Equity Requirements, dated June 1, .965 and approved July 15, 1965;

Exhibit "25" - Schedules A & B, dated June 18, 1965;

Exhibit "26" - Schedules A, B & C, dated March 13, 1967;

Exhibit "27" - Schedule A and Financial Estimates, dated March 29, 1968;

Exhibit "28" - Schedules A, B & C, dated September 15, 1969;

Exhibit "29" - Schedules A, B & C, dated May 1, 1971;

Exhibit "30" - Letter, dated June 30, 1971, from Charles J. Urstadt, Commissioner of Housing and Community Renewal, to Hon. Joseph H. Murphy, Chairman, New York State Housing Finance Agency, with attached certified copy of resolutions of Riverbay's Board of Directors.

6. In the course of my examination of the foregoing documents at the offices of the Division of Housing and Community Renewal (the "Division"), it became apparent that Community's lump sum fixed

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price construction contract for $258,678,000., referred to in the original May 12, 1965 Information Bulletin, had been changed five times, so as to increase Riverbay's construction cost to $340,500,000, although both the original and the revised Information Bulletins stated that "the risk of completing the construction within the (original) lump sum price is upon the Contractor". In addition to increasing the overall contract price to $340,500,000., Community had increased its flat fee for "home office overhead" from an original $2,000,000. to $3,050,000., contrary to the terms of the Information Bulletins and the Construction Contract itself.

7. I then had a conversation with Henry Nussbaum, Director of the Division's Bureau of Finance. I asked Mr. Nussbaum why the State had approved five separate changes of this lump sum, fixed price contract, so as to give Community, the general contractor, an additional $82,000,000. for increased costs. Mr. Nussbaum told me that this had become a common occurrence in all U.H.F. sponsored projects, because Abraham Kazan, who was the President of United Housing Foundation, Inc. (the sponsor), Riverbay (the cooperative

owner) and Community (the general contractor-builder) at the time the project was planned and commenced, "always did the same thing". Nussbaum said that it was Kazan's regular practice to understate construction costs on all projects built by Community and sponsored by U.H.F. Nussbaum said that he had remonstrated with Kazan on prior occasions when Community sought increases and he had asked him why he didn't state his construction costs realistically, in the first instance. He said that Kazan told him that if he projected construction costs realistically in his original applications to the Division and the Agency, he would lose bargaining power when it came time to negotiate with subcontractors and suppliers for the construction of the jobs. Kazan contended that, if Community took the construction contracts at low, fixed prices, he was in a position to get better prices from the subcontractors and suppliers. Mr. Nussbaum told me that the Division had given up trying to reform Mr. Kazan's practices before the Co-op City project came along; and that they went along with his methods, even though they knew the jobs would cost more and Community would require increases in its "fixed price" contracts,

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because U.H.F., under Kazan's guidance, was doing most of the substantial Mitchell-Lama construction in New York State.

8. In the course of my conversations with Mr. Nussbaum, I also inquired about the "liquid asset prequalification" which had been waived for Community, in connection with the Co-op City project, by handwritten endorsement on Community's letter of June 16, 1965 (Exhibit 21 annexed hereto). Mr. Nussbaum told me that the Division had promulgated a "Guide for Development of Limited Profit Housing", some time before the Co-op City project was started, for the purpose of acquainting developers and contractors with the Division's rules and regulations, forms and other requirements for submission and development of Mitchell-Lama housing project proposals. He gave me a copy of the Guide and pointed out the portion thereof (on page 35) which was headed "CONTRACTOR'S FINANCIAL PREQUALIFICATION REQUIREMENTS" and which read as follows:

> "All GCs submitting proposals for LPH Companies shall have as free liquid assets $105,000 plus 5% of the amount of the contract in excess of $1,000,000, as set forth in the table below:

Amount of Contract	Base	Base Amount	Amount per $1,000 above Base
Above $1,000,000	$1,000,000	$105,000	$50.00

The determination of free liquid assets will be based on a financial statement of GC of recent date certified by a Certified Public Accountant."

9. Mr. Nussbaum told me that the foregoing requirements had existed in June, 1965 when the Co-op City proposal was approved; and that this was the "liquid asset pre-qualification" which had been waived for Community, as general contractor. Accordingly, the Division and the Agency, on June 17, 1965, waived their own purdent rule which would have required Community, as general contractor for construction of Co-op City, to have free liquid assets of approximately $13,000,000., although Community's latest financial statement, which had then been submitted to the executive director of the Agency, showed its free liquid assets to be less than 1% of the amount required! The only explanation appearing for such an incredible act was a reference to Community's "past performance" and "the technical set up of his operation". The waiver of this most essential protection for thousands of innocent people who would be purchasing shares of Riverbay, the

cooperative housing company, becomes even more appalling in view of (a) Community's absolute commitment in the construction contract to complete the project for the lump sum price fixed therein; (b) the representation to that effect in the Information Bulletin; and (c) the Division's knowledge that Community, under Kazan's direction, had never yet honored such a commitment!

10. Even at this stage of revelation of the incredible history of the Co-op City project, the plaintiffs and my firm were still unaware that Community, the general contractor on this several-hundred-million-dollar construction job, which completely lacked the financial responsibility mandated by the State's own regulations and which, by the Agency's waiver, had been given a blank check drawn on the accounts of the future owners of Co-op City, was nothing more than a wholly-owned subsidiary of the project sponsor, United Housing Foundation, which in turn had organized and continued to control, through common directors and officers, the cooperative corporation (Riverbay) which it (U.H.F.) had formed for the purpose of selling over $32,000,000. in stock to the public!

THE NEED FOR CLASS ACTION STATUS

11. If we were to construct a theoretical state of facts to justify a class action, it would be difficult to improve upon the actual facts in this case. There are over 15,000 subscribers to and beneficial owners of Riverbay stock, all of whom reside in Co-op City. They purchased their stock, after receiving by mail one or both of the Information Bulletins (Exhibits 2 and 3). The 57 named plaintiffs represent a complete cross-section of that community. The claims asserted are common to all members of the class and a disposition of those claims, accordingly, will affect all of the members of the class, just as the defendants' acts and omissions have uniformly affected all of the members of the class. A clear illustration is provided by reference to Exhibit 25 annexed hereto: on June 21, 1971, Riverbay filed an application to increase the Agency's mortgage loan on the project by $60,000,000. "...in order to cover increases in construction costs...", among other things; on June 23, 1971, the Board of Directors of Riverbay, controlled by the defendants, resolved to increase the carrying charges of the plaintiffs and

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all the other resident-shareholders of Co-op City, by 20% effective January 1, 1973 and by an additional 12-1/2%, effective July 1, 1974; on June 24, 1971, Riverbay filed its application for approval of the said increase in carrying charges; and on June 30, 1971, the Commissioner communicated to the Chairman of the Agency his approval of the application for increases in the mortgage and the carrying charges, all without notice to the plaintiffs or the other members of the class. Instead, some nine months later, in a futile attempt to obtain retroactive absolution, the Commissioner scheduled a "public meeting" to give the "tenant-cooperators at Co-op City... an opportunity... to develop and present... alternate recommendations, based upon facts and sound findings, and with the burden of proof on the tenants, which would show that a lesser amount than the projected... (20% and 12.5%)... increase ... would suffice ..." (letter of Ass't Commissioner Hecht, dated March 8, 1972, annexed as Exhibit 31). (emphasis supplied). As a result, the first 20% increase in carrying charges has already been put into effect, for all resident-shareholders of Co-op City, as of January 1,

1973; and, unless relieved by the temporary injunction requested herein, all of them will be obliged to pay those increases, as well as the additional 12-1/2% increase scheduled to take effect on July 1, 1974, while the very questionable propriety of the defendants' conduct, which resulted in the increases, is being determined in this action. Obviously, there are common questions involved which affect uniformly all resident-shareholders of Co-op City; and it is most desirable that those questions be determined in one action, in one court, for the benefit of all affected parties.

PARTIAL SUMMARY JUDGMENT
AND A TEMPORARY INJUNCTION
SHOULD BE GRANTED

12. The attached exhibits, which document plaintiffs' claims and establish defendants' liability on the first, fourth, fifth, ninth and tenth counts of the amended complaint, are analyzed and referred to at length in the accompanying memorandum of law. There can be no dispute with respect to the facts derived from the defendants' own documents. The resulting questions of law are considered in the said memorandum.

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13. Similarly, the need and basis for an injunction pendente lite against collection of the latest carrying charge increases are fully set forth in the accompanying affidavit of Milton Forman, the first named plaintiff herein, who has personal knowledge of the facts; and the applicable questions of law are also considered in plaintiffs' memorandum.

s/ Jay F. Gordon
Jay F. Gordon

[Duly Sworn to
January 30th, 1973]

EXHIBIT "1" - LETTER DATED FEBRUARY 4, 1972 -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

EXECUTIVE DEPARTME... DIVISION OF HOUSING A... COMMUNITY RENEWAL

393 SEVENTH AVENUE
NEW YORK N. Y. 10001

STATE OF NEW YORK
CHARLES J. URSTADT

February 4, 1972

Jay Gordon, Esq.
Phillips, Nizer, Benjamin, Krim & Ballon
477 Madison Avenue
New York, New York 10022

Re: Riverbay Corp., HCLP #81
(Co-op City)

Dear Mr. Gordon:

At your request, I am enclosing herewith copies of the following used with respect to Co-op City:

1. 1965 Information Bulletin

2. 1967 Revised Information Bulletin

3. 1968 Letter re: Increase in Carrying Charges

Very truly yours,

Henry Russbaum
Director, Bureau of Finance

By _____
Philip Wagner
Assistant Director

PW/mk

EXHIBIT "1"

EXHIBIT "2" - 1965 INFORMATION BULLETIN -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

UNITED HOUSING FOUNDATION

invites your participation in

CO-OP CITY

A COOPERATIVE
HOUSING
COMMUNITY

INFORMATION
BULLETIN
Riverbay
Corporation

EXHIBIT "2"

MEMBERS OF THE UNITED HOUSING FOUNDATION

HOUSING COOPERATIVES

Amalgamated Dwellings, Inc.
Amalgamated Housing Corporation
Amalgamated-Warbasse Houses
Beech Hills Corporation
Bell Park Gardens
Bell Park Manor & Terrace
Big Six Towers, Inc.
Deepdale Gardens Corporation
East River Housing Corporation
Electchester
Hillman Housing Corporation
Joint Queensview Housing Enterprise, Inc.
Kingsview Homes, Inc.
Mutual Housing Association, Inc.
Mutual Redevelopment Houses, Inc.
Park Reservoir Housing Corporation
Queensview West
Ridgewood Gardens
Rochdale Village
Seward Park Housing Corporation

LABOR UNIONS

Amalgamated Clothing Workers of America
American Radio Association AFL-CIO
Associated Musicians of Greater New York
Brotherhood of Painters, Decorators & Paper Hangers of America, District Council No. 9
Building Service Employees International Union
Chain Service Restaurant, Luncheonette & Soda Fountain Employees Union, Local No. 11
Delicatessen & Restaurant Countermen Union
Department Store Workers Union, Local 1-S
District Council 37, American Federation of State, County & Municipal Employees
Dressmakers' Union, Local 22, ILGWU
Drug & Hospital Employees Union, Local 1199
Hotel & Club Employees Union, Local 6
International Brotherhood of Electrical Workers
International Brotherhood of Electrical Workers, Local 3, E Division
National Maritime Union of America
Newspaper Guild of New York, Local No. 3
New York City Central Labor Council
Retail, Wholesale & Chain Store Food Employees Union, Local No. 338
Transport Workers Union of Greater New York
United Federation of Teachers, Local No. 2
United Hatters, Cap & Millinery Workers Union
Utility Workers Union of America Local 1-2
Wood, Wire & Metal Lathers' International Union

CIVIC, FRATERNAL AND OTHER ORGANIZATIONS

Consumers' Cooperative Services, Inc.
Farband Labor Zionist Order
Goddard-Riverside Community Center
Hudson Guild, Inc.
Lenox Hill Neighborhood Association
Mid-Eastern Cooperatives, Inc.
Workmen's Benefit Fund
The Workmen's Circle

THE UNITED HOUSING FOUNDATION IS A MEMBER OF THE COOPERATIVE LEAGUE OF THE USA.

EXHIBIT "2" - 1965 INFORMATION BULLETIN -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

The United Housing Foundation

THE UNITED HOUSING FOUNDATION is a federation of housing cooperatives, civic groups, labor unions and other non-profit organizations. Its purpose is to acquaint people with the opportunities and advantages of home ownership by using the cooperative method. The housing organizations affiliated with the United Housing Foundation represent over 26,000 families who enjoy the benefits of cooperative home ownership.

The shortage of housing in the New York area is a great problem to the average family. It is also a community problem. Thousands of families have found that only by joining a cooperative organization they can collectively help themselves.

The United Housing Foundation has initiated and sponsored a number of developments. These include, among others, the 1,672 unit ILGWU Cooperative Village, the Penn Station South Cooperative with 2,820 units, the Seward Park Houses with 1,728 units, the 2,585 unit Amalgamated-Warbasse Houses, and Rochdale Village with 5,860 apartments.

In its program to develop more moderate-cost housing the Foundation is sponsoring Co-op City for 15,500 families. The purpose of this booklet is to acquaint you with the plans for that cooperative.

BEST COPY AVAILABLE

What is a Cooperative?

A cooperative is a non-profit enterprise owned and controlled democratically by its members — the people who are using its services. A cooperative is organized by a group of people who share a common need. They join together, pool their resources and work together to achieve a common purpose.

As a basic principle a cooperative is open to all people, without restrictions as to race, color or creed. As long as a member demonstrates that he believes in the objective of the cooperative he is welcome to join the organization.

One of the many examples of cooperation has been in the field of cooperative home ownership. For nearly forty years people have found that they can provide themselves with this necessity of life effectively, efficiently and economically.

How a Housing Cooperative Operates

A cooperative enterprise is owned by its member-stockholders. To become a member of a housing cooperative one makes an equity investment in proportion to the size of the dwelling unit desired. If a member subscribes for a six room unit, his investment will be twice as large as the member who subscribes for a three room unit. A cardinal principle in a cooperative organization is that each member, regardless of the size of his investment, or the number of shares he owns, has one vote in the affairs of the cooperative.

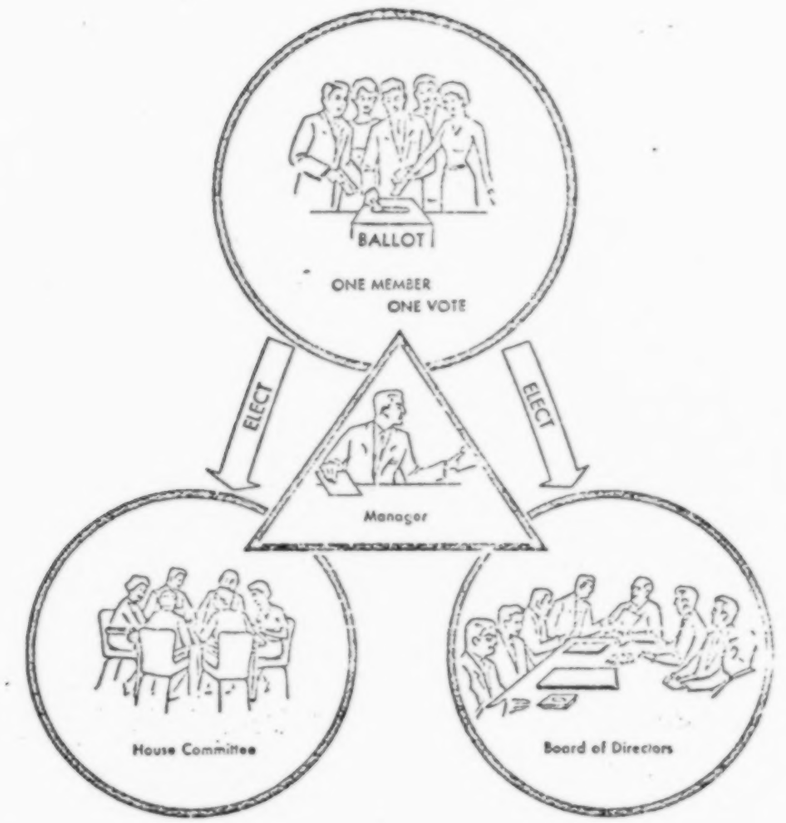
A member does not own his own apartment but shares in the ownership of the entire development. He is given a non-proprietary lease on a specific apartment, for a specified period of time. If a member of the cooperative and the housing corporation agree, the lease may be renewed at specific periods of time. The board of directors of the cooperative, subject to the approval of the Division of Housing and Community Renewal in the case of a cooperative such as Co-op City, reserves the right to refuse to renew the lease of any member upon the expiration of his existing lease. In such case the member will be required to vacate his apartment.

Each member pays his share of the carrying charges necessary to operate and maintain the development. The carrying charges are used to pay the interest and amortization on the mortgage, fuel, wages and salaries, repairs, maintenance and all other expenses. The carrying charges are based on the size and location of the members' apartment.

A cooperative is a non-profit enterprise. If there should be a surplus of income over expenses at the end of the year, the Board of Directors, after providing for adequate reserves, may return this surplus, or part of it, to the cooperators in the form of a rent rebate. On the other hand, if the expenses exceed the income, the carrying charges might have to be increased.

When a member wishes to withdraw from

EXHIBIT "2" - 1965 INFORMATION BULLETIN -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON



the cooperative, he must give the cooperative an option to repurchase his stock, at the price he paid for it, before he has the right to sell his stock to others.

In addition to the benefits which cooperative ownership makes possible, cooperation entails responsibilities and obligations. It is for that reason that it is essential for the members to take an active interest in the affairs of the cooperative, to vote intelligently on matters concerning the organization and to select competent and qualified people to serve on the Board of Directors.

The Board of Directors is responsible for the business of the cooperative. It is the Board who hires the manager. The Directors, of course, are responsible to the members. The initial Board of Directors will be responsible for the construction and completion of the job. This Board will function for the first year of operations after the completion of construction.

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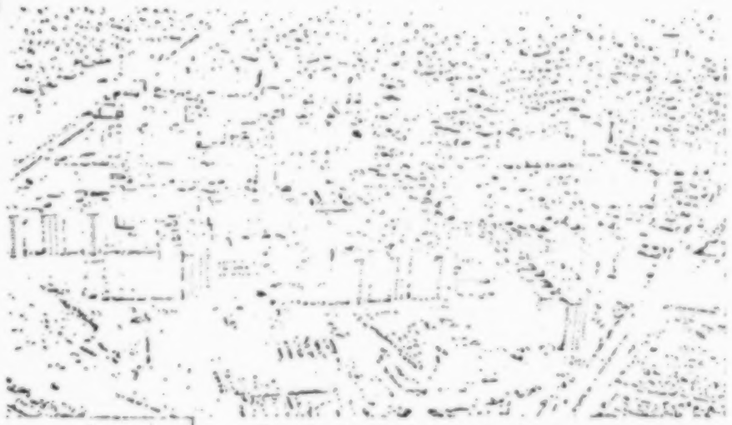
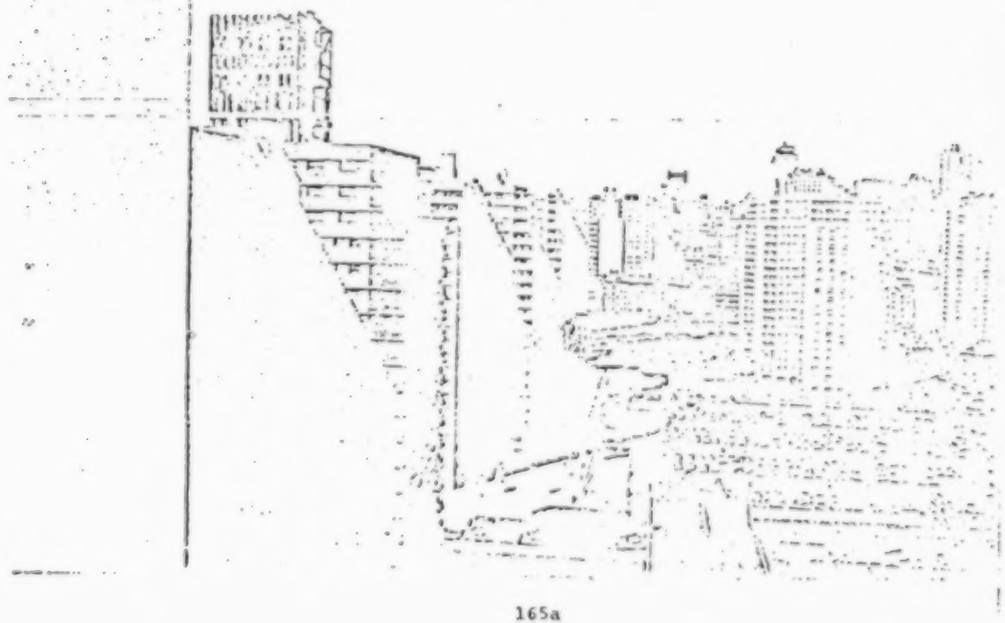


Completed in 1965 Rochdale Village is presently the largest cooperative housing development in the world. Sponsored by the United Housing Foundation it provides homes for 5,060 families. It was built at a cost of 100 million dollars.

Two of the four buildings which make up the 1,672 unit ILGWU Cooperative Village, on the east side of Manhattan.

Occupancy of the Amalgamated-Warbasse Houses in Brooklyn was completed in February 1965. The 2,585 family cooperative was sponsored by the United Housing Foundation and the Amalgamated Clothing Workers of America.

2,820 families live in the ILGWU Cooperative Houses in mid-town Manhattan. This 45 million dollar cooperative was sponsored by the United Housing Foundation and the International Ladies' Garment Workers' Union.



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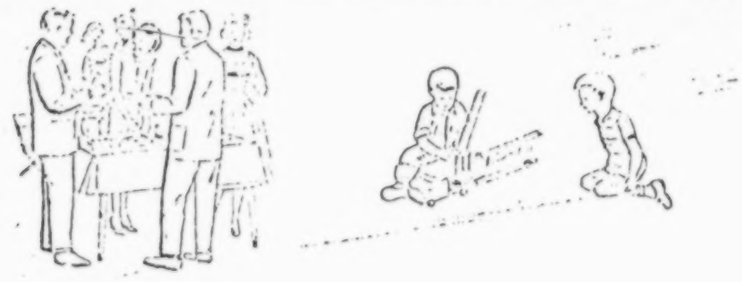

The Advantages of Cooperative Housing

People find living in a cooperative community enjoyable for more than one reason. Most people join, however, for the simple reason that it is a way to obtain decent housing at a reasonable price. However, there are other advantages. The purpose of a cooperative is to provide home ownership, not just apartments to rent. The community is designed to provide a favorable environment for family and community living. If you have lived in a private apartment house you were the tenant and someone else the landlord. The landlord's interest was in financial gain. There was no common interest between the tenants. You may have lived in the same apartment for years without getting to know your neighbors.

The common bond of collective ownership which you share makes living in a cooperative different. It is a community of neighbors. Home ownership, common interests and the community atmosphere make living in a cooperative like living in a small town. As a rule there is very little turnover in a cooperative.

There is another, rather intangible factor, which appeals to many people. It is being a part of a group working for common purposes to benefit all. In many cooperatives the self-help method which made the housing possible is extended to meet the needs of consumers in other fields. It is not uncommon for cooperators to organize cooperative foodmarkets, credit unions, nursery schools, insurance plans, health plans, — all designed to benefit themselves.

At the time of apartment selection, applicants will be requested to make a loan to the United Housing Foundation, Inc. in the amount of $10.00 per rental room. This loan will be used to enable the Foundation to continue its assistance to Co-op City and other housing developments, and their members, and will be evidenced by a note of United Housing Foundation, Inc. to the applicant repayable upon the termination of the tenant-cooperator's occupancy in the development, with interest at the rate of 2 per cent per annum. In the event the applicant withdraws from the subscription agreement at any time prior to entering into the occupancy agreement, such loans shall be repaid to him at such time with interest at the foregoing rate.

The investment a person makes in a cooperative often represents a large share of his life's savings. To insure the investment against a time when there might not be an applicant for the apartment a special reserve fund will be established. Tenant-cooperators will be required to make payments, at the time they pay their carrying charges, of fifty cents per room, per month, to this reserve fund, the payments will continue until it is determined that sufficient reserves have been established. This fund will be used exclusively for the repurchase of stock in the event no other purchasers are available.

EXHIBIT "2" - 1965 INFORMATION BULLETIN -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

INFORMATION BULLETIN

RIVERBAY CORPORATION

A Limited-Profit Housing Project Supervised By The Commissioner of Housing and Community Renewal of The State of New York.

Supervised by:	DIVISION OF HOUSING AND COMMUNITY RENEWAL OF THE STATE OF NEW YORK James Wm. Gaynor Commissioner
Proposed Mortgage Financing by:	NEW YORK STATE HOUSING FINANCE AGENCY
Partial Tax Exemption Granted by:	THE BOARD OF ESTIMATE OF THE CITY OF NEW YORK
Sponsor:	UNITED HOUSING FOUNDATION, INC. 465 Grand Street New York 2, New York
Attorneys:	SZOLD, BRANDWEN, MEYERS, BLUMBERG & ALTMAN 30 Broad Street New York 4, New York
Architect:	HERMAN J. JESSOR 465 Grand Street New York 2, New York
Contractor:	COMMUNITY SERVICES, INC. 465 Grand Street New York 2, New York

Date: May 12, 1965

BEST COPY AVAILABLE

This Bulletin has been prepared by the Housing Company for the information of prospective subscribers. All contracts and agreements referred to herein and all project costs are subject to review, audit and final approval by the Commissioner of Housing and Community Renewal of the State of New York (hereinafter called the "Commissioner"), and to such changes as the Commissioner may require or approve.

SCOPE OF THIS BULLETIN

A subscription for membership in a housing cooperative is the first step toward your participation in the cooperative ownership of a real estate project, which involves risks and responsibilities, as well as rights and privileges. This Bulletin is intended to provide some of the basic information concerning this cooperative. In addition, you should familiarize yourself with the Certificate of Incorporation and any amendments thereto, By-Laws, occupancy agreement, subscription agreement, minutes of meetings of incorporators and directors and the several contracts referred to herein, copies of which are now available, or will be made available, for your inspection at the office of the sales agent. It is urged that you consult the above documents prior to the time of your signing the Subscription Agreement.

It is important that each potential subscriber become familiar with the facts concerning this project, in order that you may make an intelligent decision as to whether or not to invest as a cooperator in this project.

The subscription agreement sets forth the terms and conditions under which you apply for stock ownership in the Housing Company.

The occupancy agreement specifies the terms and conditions under which a stockholder may occupy one of the apartments in the project.

The Certificate of Incorporation and By-Laws provide authority for and basic methods of operation of the Housing Company.

Each subscriber is advised to consult with his own attorney in order to fully understand the extent of his legal rights and obligations.

THE HOUSING COMPANY

The Housing Company was organized with the consent of the Commissioner in accordance with the provisions of the Limited-Profit Housing Companies Law of the State of New York. As a corporation organized under this statute, the Housing Company is subject to the supervision and control of the Commissioner. No funds of the Housing Company may be expended without the approval of the Commissioner. The Commissioner must also approve all contracts executed by the Housing Company for the construction and operation of the project and is charged by law with the responsibility of keeping informed as to the general condition of the project, its capitalization and the manner in which the project is constructed, leased, operated and managed. This supervision is maintained so long as the Housing Company is subject to the Limited-Profit Housing Companies Law and includes periodic inspection of the project and periodic audit of the books and records of the Housing Company.

At the completion of the construction of the project, the Commissioner is required to determine and certify the total actual final cost of the project. This determination and certification is important since the mortgage loan hereinafter referred to may not exceed 90% of the amount thereof.

THE SITE

The 9,117,600 square feet of land which comprises the project site is located at Baychester, Bronx, New York, at and in the vicinity of the intersections of the Hutchinson River Parkway and the New England Thruway.

This site is to be acquired by the Housing Company at a purchase price of $15,561,312, which price has been approved by the Commissioner. The property comprising the project site is presently under contract of sale dated December 17, 1961 to be purchased by Community Services, Inc., who will either acquire title to the property and convey the same to the Housing Company, or cause the property to be conveyed to the Housing Company at the above mentioned price of $15,561,312, subject to the issuance of a Certificate of Acquisition to the Housing Company by the Commissioner in accordance with the provisions of Section 29, Article II of the Limited-Profit Housing Companies Law of the State of New York.

THE NEIGHBORHOOD

The neighborhood at present consists generally of vacant land. However, the project, when completed, will contain a number of community service centers. In these areas will be shops, community facilities and schools. It is expected that the Board of Education will build three elementary schools and a junior high school within the project area and a new

high school within the vicinity. The City of New York will also have land for other public services. There will be parks, police and fire stations and a library.

The project is served by both the East Side and West Side IRT Subways, bringing people to midtown Manhattan in one hour. There are bus lines to both stations of the subways.

THE PROJECT

The project will be called "Co-op City", and will consist of 39 fire-proof residential buildings varying in height from 21 to 34 stories. All of the apartments as well as the community facilities will be centrally air conditioned. This will be possible because Co-op City will operate its own power plant. The plant will provide the community with its own electric power, hot water, heat and air conditioning.

The project will contain parking facilities to accommodate 10,850 automobiles which will be provided for rental to tenant-cooperators at $17.50 per month.

Approximately 78% of the site will be devoted to open space. This will mean that there will be extensive gardens, sitting areas and playgrounds.

Preliminary plans and specifications have been prepared by Herman J. Jessor, architect. The architect shall be paid $2,350,000 in accordance with a contract to be entered into in such form as the Commissioner may approve.

Copies of the preliminary plans are available or will be made available for examination at the office of the sales agent. The right is reserved, however, to make such changes in the plans and specifications and in the construction and equipment of the building as may be deemed necessary or advisable by the Housing Company, or as may be required or approved by the Commissioner or any municipal, state or federal agencies, departments

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or authorities. The working drawings are presently in preparation and when completed will be submitted for approval to the Commissioner.

STOCK OWNERSHIP

Occupancy of the residential apartments in the project is limited to stockholders of the Housing Company who must be bona-fide residents of the State of New York and over the age of twenty-one.

When your apartment application has been approved by the Housing Company and the Commissioner, after investigation and documentation of your eligibility as to income, occupancy and credit requirements, you will then be required to pay the full balance of the purchase price for the equity investment allocated to your apartment pursuant to the terms of the subscription agreement which will have been executed.

Each stockholder of the Housing Company, regardless of the amount of his investment and the number of shares or other equity obligations owned, will have one vote on corporate matters in respect of which stockholders are entitled to vote, when the stock is issued in accordance with the terms of the subscription agreement.

The Housing Company will be authorized to issue a sufficient number of shares of common stock, including three shares to be issued to the incorporators-directors, each of the par value of $25., and all except the three shares to be issued to the incorporators-directors will be allocated to the 15,500 apartments of the project. The Housing Company may also issue other equity obligations to be held by the tenant-cooperators in addition to the aforesaid shares.

The entire voting power of the corporation will be vested in Class A stock until the final advance under the Building Loan Agreement has been made, the final payment to contractor has been made under the Construction Contract and the Commissioner has issued a Certificate of Acceptability to the Housing Company after the project has been completed. Thereafter each holder of the Class B stock will have the same voting power as each holder of Class A stock. In all other respects, the Class B stock will have rights equal with and identical to the Class A stock. Each and every holder of the capital stock of the Corporation, by the acceptance of his certificate thereof, irrevocably waives and releases any and all rights to subscribe to any increase in such stock or any part thereof and consents to the issue and disposition of any such increase to such person and upon such terms and conditions as the Board of Directors from time to time may fix and determine, and subject to the approval of the Commissioner, except as otherwise provided by statute.

COOPERATIVE ORGANIZATION

The Housing Company will become the owner of the fee title to the project. Its affairs are governed by the provisions of its Certificate of Incorporation and By-Laws, as the same may be amended from time to time. Copies of these two documents will be furnished by the sales agent to the tenant-cooperator upon demand.

Each of the subscribers to the Certificate of Incorporation (Abraham E. Kazan, Jacob S. Potofsky and Robert Szold) has been approved by the Commissioner and will purchase one share of stock of the Housing Company at the par value thereof. This stock will be surrendered to the Housing Company at the appropriate time.

EXHIBIT "2" - 1965 INFORMATION BULLETIN -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

Until the first meeting of the subscribers-stockholders, the Board of Directors will consist of:

Abraham E. Kazan
Jacob S. Potofsky
Louis Stulberg
Robert Szold
Harold Ostroff

all of whom have been approved as Directors by the Commissioner, or such other successor or substitute directors as may, from time to time, be elected and, thereafter, approved by the Commissioner.

All of the officers have been elected by the directors. The present officers of the Housing Company are:

Abraham E. Kazan	*President*
Jacob S. Potofsky	*Vice President*
Louis Stulberg	*Secretary*
Robert Szold	*Treasurer*
Harold Ostroff	*Assistant Sec'y.*

A stockholders' meeting will be called for the election of new directors after the expiration of 30 days from the date the Commissioner or his successor shall have issued a Certificate of Acceptability as provided in the Certificate of Incorporation, at which time, the resignations of all of the then officers and directors will be tendered to the Housing Company.

FINANCING OF PROJECT

The total estimated project cost is $283,695,550.

The funds provided by your purchase of stock and or other equity obligations and those provided by the other purchasers will constitute the equity investment of $32,795,550 and such funds are intended to furnish the difference between: (1) the cost of acquiring the land and constructing the project and providing working capital funds, and (2) the proceeds of a first mortgage loan of $250,900,000.

It is contemplated that the New York State Housing Finance Agency will issue a commitment for financing during construction and for a forty-year, self liquidating permanent mortgage of $250,900,000 or in any event not more than 90% of the actual total project cost at an interest rate to be determined by the cost of borrowing to the Housing Finance Agency plus a proportionate share of its expenses and other charges, as certified by the Agency.

CONSTRUCTION CONTRACT

It is anticipated that the General Contractor for the construction of the project will be Community Services, Inc., of 465 Grand Street, New York 2, New York. The performance of certain sub-contracts to be made with the General Contractor will be insured by a surety company or companies in amounts to be approved by the Commissioner, in favor of the Housing Company, the General Contractor and the New York State Housing Finance Agency.

All construction must meet City Building Code requirements and be acceptable to the Housing Company and the Commissioner.

The construction contract will be executed prior to the mortgage loan closing. The contract will provide for the payment of a lump sum price to the Contractor for the construction of the project, in the amount of $253,678,000, subject to addition or deduction for

change orders during the progress of construction as approved by the Commissioner.

The contract price will include the sum of $2,000,000 for builder's home office overhead, but there will be no builder's fee. The risk of completing the construction within the lump sum price is upon the Contractor. In addition to periodic audits during the progress of construction, the cost of construction will be audited by the Commissioner upon completion of the project to determine the amount, if any, of savings between the lump sum contract price and the cost of construction. Any savings will inure to the benefit of the Housing Company.

For the purpose of determining such savings, if any, the total cost of development will be determined by the Division without regard to the over-run or under-run on any specific item in the schedule of estimated construction costs for the project but the Division will retain the right to determine whether or not any item of actual cost is properly includable in the total cost of the work.

COMPLETION OF PROJECT

When each building is ready for occupancy, the Housing Company will give each subscriber assigned to such building 30 days notice in writing to commence occupancy in the manner directed by the then Managing Agent of the building. Upon acceptance of occupancy or at the expiration of 30 days, whichever is earlier, the member shall commence payment of the carrying charges for the apartment, in accordance with the occupancy agreement.

By the terms of the Subscription Agreement the apartment buildings will be deemed fully completed and the contract between the Housing Company and the Contractor duly and fully performed as soon as both of the following conditions are met:

(a) The final Certificate of Occupancy has been issued by the Department of Housing and Buildings of the City of New York, and

(b) The Commissioner has issued his Certificate of Acceptability to the Housing Company.

OCCUPANCY AGREEMENT

Each subscriber to stock in the Housing Company will be required to execute an occupancy agreement for the apartment to which his stock has been allocated. The form of the occupancy agreement will be available for inspection at the office of the sales agent.

PROCEDURE AND SUBSCRIPTION AGREEMENT

A deposit of $500 will be required from each applicant at the time he executes a subscription agreement and apartment application ("subscription agreement") and affidavits as to income, which can be obtained from the Housing Company.

The equity requirement for each type of apartment will be at the rate of $1,050 per

room. Accordingly, the total equity requirements for such apartments are as follows:

$1,575 for a 3½ room apartment (kitchen, dining room, living room and 1 bedroom, without balcony)

$1,800 for a 4 room apartment (kitchen, dining room, living room and 1 bedroom, with balcony)

$2,025 for a 4½ room apartment (kitchen, dining room, living room and 2 bedrooms, without balcony)

$2,250 for a 5 room apartment (kitchen, dining room, living room and 2 bedrooms, with balcony)

$2,700 for a 6 room apartment (kitchen, dining room, living room and 3 bedrooms, without balcony)

$2,925 for a 6½ room apartment (kitchen, dining room, living room and 3 bedrooms, with balcony)

Upon receipt by the Housing Company of the executed subscription agreement and affidavits as to income and the deposit of $500 from the subscriber, the Housing Company will credit such deposit against the subscription price required to be paid by the subscriber under the subscription agreement for each type of apartment, as above described, as follows:

3½ rooms — $375
4 rooms — $100
4½ rooms — $125
5 rooms — $450
6 rooms — $175
6½ rooms — $500

The balance, if any, of the deposit shall be credited toward the purchase of the full equity requirements referred to herein.

Upon the selection of the particular apartment by the subscriber of the type hereinabove set forth, by the execution of the occupancy agreement referred to herein, he shall invest a further sum equal to the amount of the total equity requirement for his apartment less the amount of the deposit, so that the total amount invested by the subscriber shall be equal to the total equity requirement for his apartment.

The subscriber may withdraw from the subscription agreement at any time prior to selecting the particular apartment which he desires to occupy, and shall, upon such withdrawal, be entitled to a refund, without interest, of all amounts paid thereunder. After the subscriber shall have selected an apartment he may also withdraw from the subscription agreement at any time prior to executing the occupancy agreement (lease) for the apartment and shall, upon such withdrawal, be entitled to a refund, without interest, on all amounts theretofore paid as equity investment, but such refund shall not be paid by the Housing Company to the subscriber until the stock and or other equity obligations subscribed for under the subscription agreement is sold to another applicant and the apartment selected by the subscriber has been assigned to such other applicant.

The Housing Company reserves the right at any time before an occupancy agreement is entered into with the subscriber, for any reason deemed sufficient by the Housing Company, in its sole discretion, subject to the approval of the Commissioner, to repay the amount paid to it by the subscriber. In the event that such repayment shall be made prior to the selection by the subscriber of a particular apartment, or in the event the subscription agreement is not approved by the Commissioner, such repayment shall be made without interest. In the event that such repayment is made after the subscriber shall have so selected an apartment, such repayment shall be made with interest thereon at the rate of 2% per annum from the date of such payments by the subscriber. Upon any such repayment by the Housing Company, all rights of the subscriber under the aforesaid subscription agreement will cease and terminate.

The sub-cription agreement is specifically subject to the provisions of the Limited-Profit Housing Companies Law, the Certificate of Incorporation and By-Laws, the building loan contract, any agreements which may be made or entered into between the Housing Company and the New York State Housing Finance Agency and any and all other contracts, agreements, mortgages, leases and other instruments, and any and all modifications, renewals and extensions thereof entered into by the Housing Company before or after the execution of the subscription agreement, provided that the same have the written approval of the Commissioner. The subscription agreement further provides that all said contracts, agreements, mortgages, leases and other instruments and any and all modifications, renewals and extentions thereof, shall be determined by the Board of Directors of the Housing Company, in its discretion, subject only to the approval of the Commissioner.

Please read the subscription agreement for a more detailed statement of your rights and obligations.

CARRYING CHARGES

It is contemplated that the average monthly carrying charge will be approximately $23.02 per room. This average monthly carrying charge is based on presently estimated construction and operating costs. The Housing Company will make every effort to keep such average monthly carrying charge within such range. However, it is possible that increases in costs may increase the average monthly carrying charge somewhat above the $23.02 per room level.

Many of the apartments will be below the average and many above. The carrying charges on specific apartments are determined by the location and exposure of the apartment.

The average monthly carrying charges do *not* include utilities. The Housing Company will generate its own electric power and the charge therefor will be at as low a rate as possible. If gas is used for cooking, there will be a flat rate per month for gas.

THE APARTMENTS

Final apartment plans are being prepared and will be ready when the subscribers are called to select an apartment.

Applicants who are accepted will be called to select their apartments in the order in which applications are filed. Apartments will be selected from large site plans and floor plans at the Applications Office.

MANAGEMENT

The right to determine the method of management of the Cooperative is vested in the Board of Directors, subject to the approval of

the Commissioner. The present Board of Directors will retain a qualified Managing Agent to serve for one year, subject to replacement

or retention thereafter by the then elected Board of Directors. The choice and qualification of the Managing Agent shall be at all times subject to the approval of the Commissioner.

TAX BENEFITS

The City of New York has agreed to exempt the land and improvements in the completed project from real estate taxes, to the extent of 50% of the value thereof, for a period of not more than 30 years, commencing from the date on which the benefits of such exemption first become available and effective.

The cooperative ownership of the project has been designed to give purchasers of stock the benefits of income tax deductions allowable to tenant-stockholders of cooperative housing corporations under the provisions of Section 216 of the Internal Revenue Code and Section 360 of the New York State Tax Law; however, no representations are made that such deductions will be available to purchasers of stock. The present laws and regulations entitle tenant-stockholders of cooperative housing corporations to deduct from their gross income for Federal and New York State income tax purposes their proportionate share of real estate taxes and interest paid by such cooperative corporations. The actual tax saving to an individual would depend upon the respective taxpayer's income tax bracket.

Neither the sales agent nor the Housing Company makes any warranties or representations that the U.S. Treasury Department or the New York State Department of Taxation and Finance will hold that tenant-stockholders are entitled to the above income tax benefits and they shall not be liable if for any reason it be held that the Housing Company or any transaction does not meet, or at any future time ceases to meet, the requirements of law.

ESTIMATE OF EXPENSES

Schedules of the estimated project cost and of the estimated annual operating expenses and income for the first year of operation of the project, as prepared and approved by the Commissioner, are available for your inspection at the office of the sales agent.

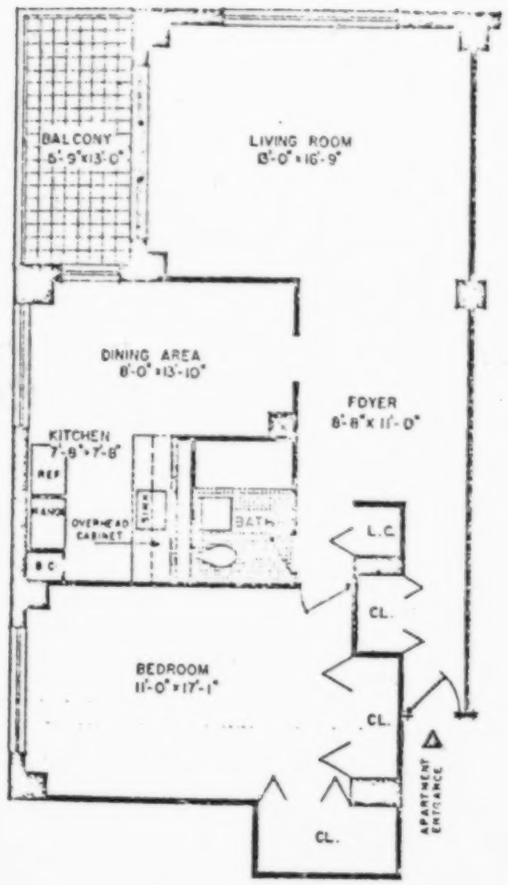
HOUSING COMPANY COUNSEL

The services of the law firm of Szold, Brandwen, Meyers, Blumberg & Altman, of 30 Broad Street, New York, New York, have been procured for the organization of the Housing Company, the acquisition of the site, the preparation of the subscription agreement, the occupancy agreement, this Information Bulletin, and all other matters requiring legal services in connection with the affairs of the Housing Company and the construction and financing of the project, at such fee as the Commissioner shall approve, not to exceed the amount shown in the schedule of the estimated project cost.

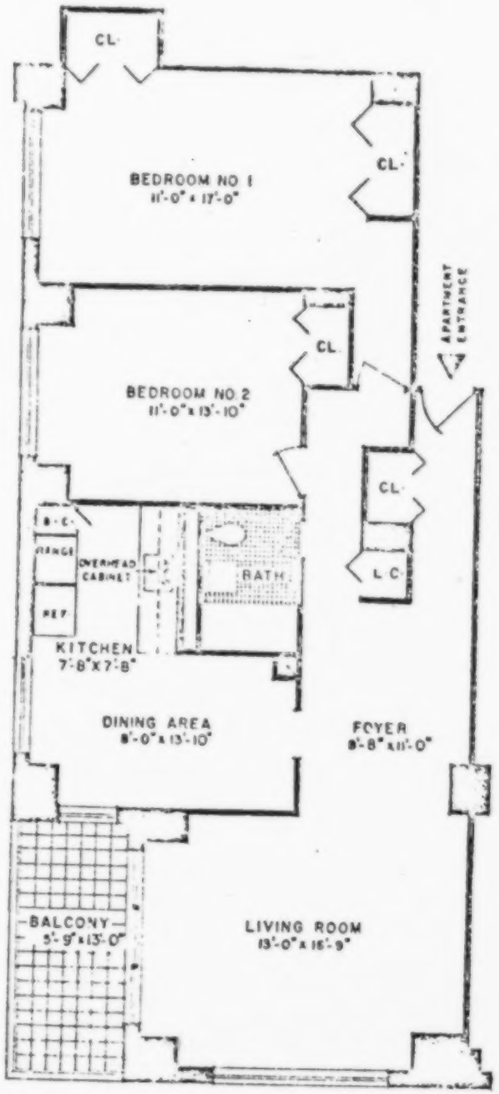
SALES AGENT

Subject to the approval of the Commissioner, Community Services, inc., of 465 Grand Street, New York, New York, has been retained by the Housing Company as sole agent for the sale of stock and/or other equity obligations and apartments in the project, at such fee as the Commissioner shall approve, not to exceed the amount shown in the schedule of the estimated project cost.

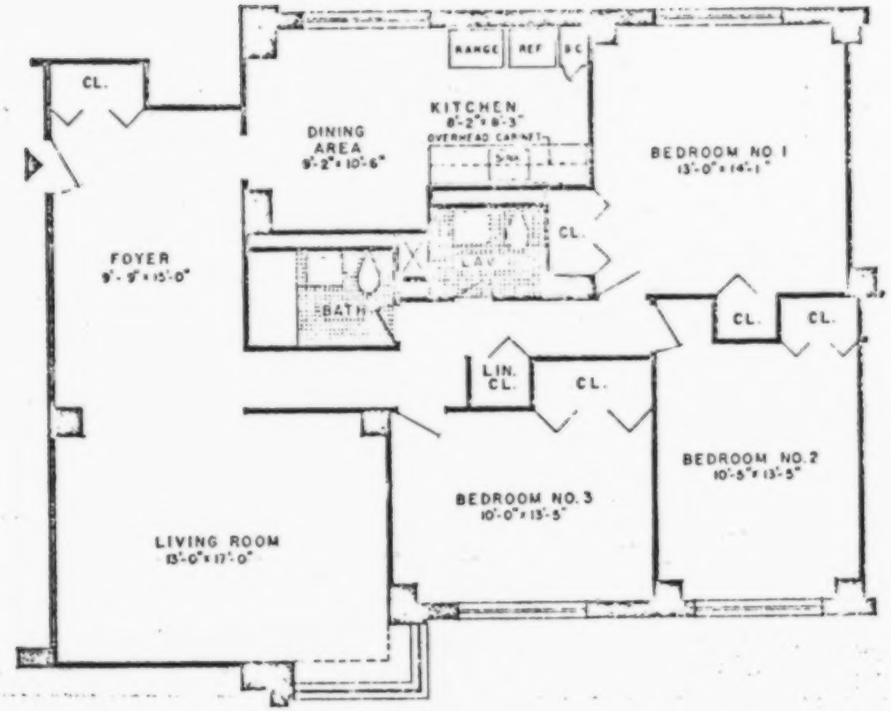
A[illegible]RTMENTS WILL BE SIMILAR TO THESE



3½ ROOM & BALCONY APARTMENT



4½ ROOM & BALCONY APARTMENT



6 ROOM APARTMENT

NOTE Plans are subject to minor modification.

APPLICATIONS

Applications for Co-op City may be filed at the Applications Office of Community Services, Inc., 309 West 23rd Street, New York, New York 10011.

ACCOUNTANT

Subject to the approval of the Commissioner, Apfel & Englander, of 317 Madison Avenue, New York, New York 10017, certified public accountants, will be retained by the Housing Company to supervise the keeping of its accounts, to periodically audit its books and to prepare the financial reports and statements required by the Commissioner, at such fee as the Commissioner shall approve.

INCOME LIMITATIONS

The Commissioner has fixed a maximum annual income for initial occupancy of apartments. If, after initial occupancy, your income should increase above the statutory limitations you may be surcharged in accordance with a schedule approved by the Commissioner.

ONE LAST WORD

Co-op City is being built for the benefit and enjoyment of many people. It has been determined a long time ago, that dogs, as lovely as they may be, are not conducive to enjoyable living in high rise apartment buildings. Dogs and other animals will not be permitted in Co-op City.

Modern laundry rooms will be located in each building. There will be a minimum charge for the use of washing machines and dryers. Individual clothes washing machines will not be permitted in the apartments.

STOCK AND/OR OTHER EQUITY OBLIGATIONS OFFER

The Housing Company invites offers for shares of its capital stock and/or other equity obligations for sale in units which will be allocated to the 15,500 apartments of the development all in accordance with the terms of the subscription agreement. Sales will be limited to bona-fide residents of the State of New York over the age of 21 years.

No person has been authorized to make any representations in connection with this invitation for offers and no representations are or have been authorized to be made other than those herein contained.

CHANGES

No changes may be made in this Information Bulletin unless in writing, signed by a duly authorized officer of the Housing Company and approved by the Commissioner.

Dated: New York
May 12, 1965.

RIVERBAY CORPORATION

EXHIBIT "2" - 1965 INFORMATION BULLETIN -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

UNITED HOUSING FOUNDATION

BOARD OF DIRECTORS

IRWIN BARON
Member, Board of Directors
Lenox Hill Neighborhood Association

H. DANIEL CARPENTER
Director
Hudson Guild, Inc.

MORRIS IUSHEWITZ
Secretary
N.Y.C. Central Labor Council
AFL-CIO

ABRAHAM E. KAZAN
President, United Housing Foundation
President, Amalgamated Housing Corp.

PAUL T. O'KEEFE
Member, Board of Directors
Rochdale Village, Inc.

HAROLD OSTROFF
President, Mutual Housing Association Inc.

JACOB S. POTOFSKY
General President
Amalgamated Clothing Workers of America

MARTIN PARBACK
Member, Board of Directors
Seward Park Housing Corp.

MARIAN SAMETH
Member, Board of Directors
Joint Queensview Housing Enterprise, Inc.

WILLIAM STERN
Administrative Director
Workmen's Circle

LOUIS STULBERG
General Secretary-Treasurer
International Ladies' Garment Workers' Union

DAVID SULLIVAN
General President
Building Service Employees International Union

ROBERT SZOLD
President
Hillman Housing Corp.

HARRY VAN ARSDALE, JR.
Vice President, United Housing Foundation
Treasurer, Electchester

CHARLES S. ZIMMERMAN
Vice President
International Ladies' Garment Workers' Union

COOPERATION

COOPERATION MEANS CONCERT FOR THE DIFFUSION OF WEALTH. IT LEAVES NOBODY OUT WHO HELPS TO PRODUCE IT. IT TOUCHES NO MAN'S FORTUNE, IT SEEKS NO PLUNDER, IT CAUSES NO DISTURBANCE IN SOCIETY..... IT CONTEMPLATES NO VIOLENCE, IT SUBVERTS NO ORDER....IT ACCEPTS NO GIFT NOR ASKS ANY FAVOR. IT KEEPS NO TERMS WITH THE IDLE AND IT WILL BREAK NO FAITH WITH THE INDUSTRIOUS..... IT MEANS SELF-RULE, SELF-DEPENDENCE AND SUCH SHARE OF THE COMMON COMPETENCE AS LABOR SHALL EARN OR THOUGHT CAN WIN.....

GEORGE ELLIS BRIGGS
LOWELL, MASSACHUSETTS - 1865

EXHIBIT "2" - 1965 INFORMATION BULLETIN -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

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EXHIBIT "2" - 1965 INFORMATION BULLETIN -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

UNITED HOUSING FOUNDATION

EXHIBIT "3" - 1967 REVISED INFORMATION BULLETIN -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

CO-OP CITY

A NEW TOWN,
OWNED BY ITS RESIDENTS,
DESIGNED FOR FAMILY LIVING

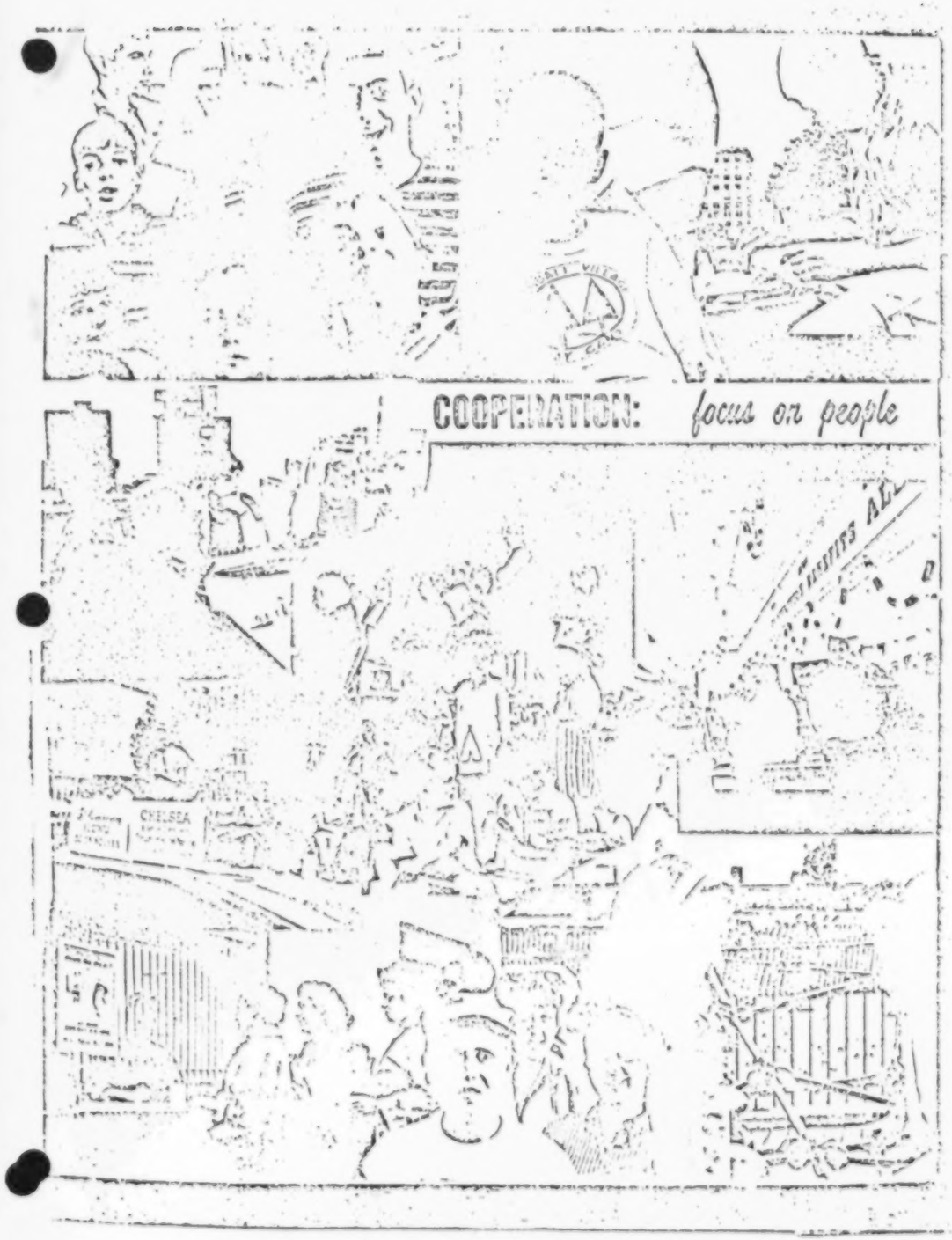


EXHIBIT "3" - 1967 REVISED INFORMATION BULLETIN -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

AA CO-OP CITY
a residential community cooperatively owned and operated

RIVERBAY CORPORATION Applications Office
309 West 23rd Street/ New York, N. Y. 10011 / 924-5115

Dear Applicant:

This will acknowledge your inquiry concerning an application for an apartment in CO-OP CITY (Riverbay Corporation) sponsored by United Housing Foundation.

This Information Bulletin and descriptive brochure will tell you about CO-OP CITY. An application and two copies of a Subscription Agreement are enclosed.

The application and one copy of the Subscription Agreement should be mailed back to our office with a check for $500 payable to "Riverbay Corporation"; the second copy of the Subscription Agreement is for your files.

Applicants are called to select apartments in the order in which they have made their deposits. We hope we will be able to assist you with your housing needs.

Cooperatively yours,

Harold Ostroff
President

(APPLICATION BLANK IN CENTERFOLD)

THE UNITED HOUSING FOUNDATION is a federation of housing cooperatives, civic groups, labor unions and other non-profit organizations. Its purpose is to acquaint people with the opportunities and advantages of home ownership by using the cooperative method. The housing organizations affiliated with the United Housing Foundation represent over 26,000 families who enjoy the benefits of cooperative home ownership.

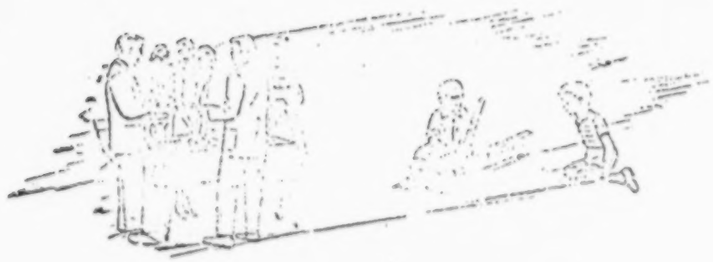
The shortage of housing in the New York area is a great problem to the average family. It is also a community problem. Thousands of families have found that only by joining a cooperative organization they can collectively help themselves.

The United Housing Foundation has initiated and sponsored a number of developments. These include, among others, the 1,672 unit ILGWU Cooperative Village, the Penn Station South Cooperative with 2,820 units, the Seward Park Houses with 1,728 units, the 2,585 unit Amalgamated-Warbasse Houses, and Rochdale Village with 5,860 apartments.

In its program to develop more moderate-cost housing the Foundation is sponsoring Co-op City for 15,372 families. The purpose of this booklet is to acquaint you with the plans for that cooperative.

MEMBER OF THE COOPERATIVE LEAGUE OF THE USA.

EXHIBIT "3" - 1967 REVISED INFORMATION BULLETIN -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON



The Advantages of Cooperative Housing

People find living in a cooperative community enjoyable for more than one reason. Most people join, however, for the simple reason that it is a way to obtain decent housing at a reasonable price. However, there are other advantages. The purpose of a cooperative is to provide home ownership, not just apartments to rent. The community is designed to provide a favorable environment for family and community living. If you have lived in a private apartment house you were the tenant and someone else the landlord. The landlord's interest was in financial gain. There was no common interest between the tenants. You may have lived in the same apartment for years without getting to know your neighbors.

The common bond of collective ownership which you share makes living in a cooperative different. It is a community of neighbors. Home ownership, common interests and the community atmosphere make living in a cooperative like living in a small town. As a rule there is very little turnover in a cooperative.

There is another, rather intangible factor, which appeals to many people. It is being a part of a group working for common purposes to benefit all. In many cooperatives the self-help method which made the housing possible is extended to meet the needs of consumers in other fields. It is not uncommon for cooperators to organize cooperative foodmarkets, credit unions, nursery schools, insurance plans, health plans, — all designed to benefit themselves.

At the time of apartment selection, applicants will be requested to make a loan to the United Housing Foundation, Inc. in the amount of $10.00 per rental room. This loan will be used to enable the Foundation to continue its assistance to Co-op City and other housing developments, and their members, and will be evidenced by a note of United Housing Foundation, Inc. to the applicant repayable upon the termination of the tenant-cooperator's occupancy in the development, with interest at the rate of 2 per cent per annum. In the event the applicant withdraws from the subscription agreement at any time prior to entering into the occupancy agreement, such loans shall be repaid to him at such time with interest at the foregoing rate.

The investment a person makes in a cooperative often represents a large share of his life's savings. To insure the investment against a time when there might not be an applicant for the apartment a special reserve fund will be established. Tenant-cooperators will be required to make payments, at the time they pay their carrying charges, of fifty cents per room, per month, to this reserve fund; the payments will continue until it is determined that sufficient reserves have been established. This fund will be used exclusively for the repurchase of stock in the event no other purchasers are available.

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INFORMATION BULLETIN

RIVERBAY CORPORATION
(CO-OP CITY)

A Limited-Profit Housing Community Supervised By The Commissioner of Housing and Community Renewal of The State of New York.

Sponsor:	UNITED HOUSING FOUNDATION, INC. 465 Grand Street New York, New York 10002
Contractor:	COMMUNITY SERVICES, INC. 465 Grand Street New York, New York 10002
Attorneys:	SZOLD, BRANDWEN, MEYERS & ALTMAN 30 Broad Street New York, New York 10004
Architect:	HERMAN J. JESSOR 465 Grand Street New York, New York 10002
Supervised By:	DIVISION OF HOUSING AND COMMUNITY RENEWAL OF THE STATE OF NEW YORK James Wm. Gaynor Commissioner
Mortgage Financing By:	NEW YORK STATE HOUSING FINANCE AGENCY
Partial Tax Exemption Granted by:	THE BOARD OF ESTIMATE OF THE CITY OF NEW YORK

Dated: May 12, 1965
Revised: May 15, 1967

This Bulletin has been prepared by the Housing Company (hereinafter called the "Cooperative") for the information of prospective subscribers. All contracts and agreements referred to herein and all development costs are subject to review, audit and final approval by the Commissioner of Housing and Community Renewal of the State of New York (hereinafter called the "Commissioner"), and to such changes as the Commissioner may require or approve.

EXHIBIT "3" - 1967 REVISED INFORMATION BULLETIN -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

SCOPE OF THIS BULLETIN

A subscription for membership in a housing cooperative is the first step toward your participation in the cooperative ownership of a real estate development, which involves risks and responsibilities, as well as rights and privileges. This Bulletin is intended to provide some of the basic information concerning this cooperative. In addition, you should familiarize yourself with the Certificate of Incorporation and any amendments thereto, By-Laws, occupancy agreement, subscription agreement, minutes of meetings of incorporators and directors and the several contracts referred to herein, copies of which are now available, or will be made available, for your inspection at the office of the sales agent. It is urged that you consult the above documents prior to the time of your signing the subscription agreement.

It is important that each potential subscriber become familiar with the facts concerning Co-op City, in order that you may make an intelligent decision as to whether or not to invest as a cooperator in this development.

The subscription agreement sets forth the terms and conditions under which you apply for stock ownership in the Cooperative.

The occupancy agreement specifies the terms and conditions under which a stockholder may occupy one of the apartments in the development.

The Certificate of Incorporation and By-Laws provide authority for and basic methods of operation of the Cooperative.

Each subscriber is advised to consult with his own attorney in order to fully understand the extent of his legal rights and obligations.

RIVERBAY CORPORATION, THE COOPERATIVE

Riverbay Corporation (Co-op City) was organized with the consent of the Commissioner in accordance with the provisions of the Limited-Profit Housing Companies Law of the State of New York. As a corporation organized under this statute, the Cooperative is subject to the supervision and control of the Commissioner. No funds of the Cooperative may be expended without the approval of the Commissioner. The Commissioner must also approve all contracts executed by the Cooperative for the construction and operation of the development and is charged by law with the responsibility of keeping informed as to the general condition of the development, its capitalization and the manner in which the development is constructed, leased, operated and managed. This supervision is maintained so long as the Cooperative is subject to the Limited-Profit Housing Companies Law and includes periodic inspection of the development and periodic audit of the books and records of the Cooperative.

At the completion of the construction of the development, the Commissioner is required to determine and certify the total actual final cost of the development. This determination and certification is important since the mortgage loan hereinafter referred to may not exceed 90% of the amount thereof.

THE SITE

The 9,186,800 square feet of land which comprises the development site is located at Baychester, Bronx, New York, at and in the vicinity of the intersections of the Hutchinson River Parkway and the New England Thruway.

This site was acquired by the Cooperative on July 15, 1965 at a cost of $16,013,982, which cost was approved by the Commissioner pursuant to a Certificate of Acquisition issued by the Commissioner in accordance with the provisions of Section 29, Article II of the Limited-

Profit Housing Companies Law of the State of New York.

THE NEIGHBORHOOD

The neighborhood at present consists generally of vacant land. However, Co-op City, when completed, will contain a number of community service centers. In these areas will be shops, community facilities and schools. It is expected that the Board of Education will build three elementary schools, two intermediate schools and a high school within the community. The City of New York will also have land for other public services. There will be parks, a fire station and a library.

The Community is served by both the East Side and West Side IRT Subways and the IND Subway, bringing people to midtown Manhattan in one hour. There are bus lines to the subway stations.

CO-OP CITY — THE PHYSICAL PLAN

The development will be called "Co-op City", and will consist of 35 fire-proof residential buildings varying in height from 24 to 33 stories and 236 3-story town houses. All of the apartments as well as the community facilities will be centrally air conditioned. A central power plant will provide the community with its own hot water, heat, air conditioning and emergency electric power.

The development will contain parking facilities to accommodate 10,350 automobiles which will be provided for rental to tenant-cooperators at $15.00 per month.

Approximately 82% of the site will be devoted to open space. This will mean that there will be extensive gardens, sitting areas and playgrounds.

Plans and specifications have been prepared by Herman J. Jessor, architect. The architect shall be paid $2,559,000 in accordance with a contract between the Cooperative and the architect and approved by the Commissioner.

Copies of the plans are available or will be made available for examination at the office of Community Services, Inc., the sales representative. The right is reserved, however, to make such changes in the plans and specifications and in the construction and equipment of the building as may be deemed necessary or advisable by the Cooperative, or as may be required or approved by the Commissioner or any municipal, state or federal agencies, departments or authorities. The working drawings are presently in preparation and when completed will be submitted for approval to the Commissioner.

COOPERATIVE MEMBERSHIP (STOCK OWNERSHIP)

Occupancy of the residential apartments in the development is limited to stockholders of the Cooperative, who must be bonafide residents of the State of New York and over the age of twenty-one.

When your apartment application has been approved by the Cooperative and the Commissioner, after investigation and documentation of your eligibility as to income, occupancy and credit requirements, you will then be required to pay the full balance of the purchase price for the equity investment allocated to your apartment pursuant to the terms of the subscription agreement which will have been executed.

Each stockholder-member of the Cooperative, regardless of the amount of his investment and the number of shares or other equity obligations owned, will have one vote on corporate matters in respect of which stockholders are entitled to vote, when the stock is issued in accordance with the terms of the subscription agreement.

The Cooperative is authorized to issue a sufficient number of shares of common stock,

including three shares to be issued to the incorporators, each of the par value of $25., and all except the three shares to be issued to the incorporators will be allocated to the 15,372 apartments of the development. The Cooperative may also issue other equity obligations to be held by the tenant-cooperators in addition to the aforesaid shares.

The entire voting power of the corporation will be vested in Class A stock until the final advance under the Building Loan Agreement has been made, the final payment to the contractor has been made under the Construction Contract and the Commissioner has issued a Certificate of Acceptability to the Cooperative after the development has been completed. Thereafter each holder of the Class B stock will have the same voting power as each holder of Class A stock. In all other respects, the Class B stock will have rights equal with and identical to the Class A stock. Each and every holder of the capital stock of the Corporation, by the acceptance of his certificate thereof, irrevocably waives and releases any and all rights to subscribe to any increase in such stock or any part thereof and consents to the issue and disposition of any such increase to such person and upon such terms and conditions as the Board of Directors from time to time may fix and determine, and subject to the approval of the Commissioner, except as otherwise provided by statute.

COOPERATIVE ORGANIZATION

The Cooperative is the owner of the fee title to the development. Its affairs are governed by the provisions of its Certificate of Incorporation and By-Laws, as the same may be amended from time to time. Copies of these two documents will be furnished by the sales representative to the tenant-cooperator upon demand.

Each of the subscribers to the Certificate of Incorporation (Abraham E. Kazan, Jacob S. Potofsky and Robert Szold) has been approved by the Commissioner and has purchased one share of stock of the Cooperative at the par value thereof. This stock will be surrendered to the Cooperative at the appropriate time.

Until the first meeting of the Class B stockholders, the Board of Directors will consist of:

Jacob S. Potofsky
Louis Stulberg
Robert Szold
Harold Ostroff
Gerald Coleman
Seymour Klanfer
Paul T. O'Keefe
Albert Shanker
Jacob Sheinkman

all of whom have been approved as Directors by the Commissioner, or such other successor or substitute directors as may, from time to time, be elected and, thereafter, approved by the Commissioner.

All of the officers have been elected by the directors. The present officers of the Cooperative are:

Harold Ostroff ..... *President*
Jacob S. Potofsky ..... *Vice President*
George Scheehter ..... *Vice President*
Louis Stulberg ..... *Secretary*
Robert Szold ..... *Treasurer*
Irving J. Alter .... *Assistant Secretary*
Paul Kramer .... *Assistant Treasurer*

New directors will be elected in accordance with the provisions of the By-Laws of the Cooperative after the expiration of 30 days from the date the Commissioner or his successor shall have issued a Certificate of Acceptability as provided in the Certificate of Incorporation, at which time, the resignations of all of the then officers and directors will be tendered to the Cooperative.

FINANCING OF CO-OP CITY

The total estimated development cost is $293,803,200.

The funds provided by your purchase of stock and/or other equity obligations and those provided by the other purchasers will constitute the equity investment of $32,503,200 and such funds are intended to furnish the difference between: (1) the cost of acquiring the land and constructing the development and providing working capital funds, and (2) the proceeds of a first mortgage loan of $261,000,000.

The New York State Housing Finance Agency has granted a mortgage loan for financing during construction and for a forty-year, self-liquidating permanent mortgage of $261,600,000 or in any event not more than 90% of the actual total development cost, at an interest rate to be determined by the cost of borrowing to the Housing Finance Agency plus a proportionate share of its expenses and other charges, as certified by the Agency.

CONSTRUCTION CONTRACT

The General Contractor for the construction of the development is Community Services, Inc., of 465 Grand Street, New York, New York 10002. The performance of certain subcontracts to be made with the General Contractor will be insured by a surety company or companies in amounts to be approved by the Commissioner, in favor of the Cooperative, the General Contractor and the New York State Housing Finance Agency.

All construction must meet City Building Code requirements and be acceptable to the Cooperative and the Commissioner.

The construction contract provides for the payment of a lump sum price to the General Contractor for the construction of the development, in the amount of $267,830,750, subject to addition or deduction for change orders during the progress of construction as approved by the Commissioner.

The contract price includes the sum of $2,000,000 for builder's home office overhead, but there will be no builder's fee. The risk of completing the construction within the lump sum price is upon the Contractor. In addition to periodic audits during the progress of construction, the cost of construction will be audited by the Commissioner upon completion of the development to determine the amount, if any, of savings between the lump sum contract price and the cost of construction. Any savings will inure to the benefit of the Cooperative.

For the purpose of determining such savings, if any, the total cost of development will be determined by the Division without regard to the over-run or under-run on any specific item in the schedule of estimated construction costs for the development but the Division will retain the right to determine whether or not any item of actual cost is properly includable in the total cost of the work.

COMPLETION OF DEVELOPMENT

When each building is ready for occupancy, each subscriber assigned to such building will be given 30 days notice in writing to commence occupancy in the manner directed by the Cooperative or its representative. Upon acceptance of occupancy or at the expiration of 30 days, whichever is earlier, the member shall commence payment of the carrying charges for the apartment, in accordance with the occupancy agreement.

By the terms of the subscription agreement the apartment buildings will be deemed fully completed and the contract between the Cooperative and the Contractor duly and fully performed as soon as both of the following conditions are met:

(a) The final Certificate of Occupancy has been issued by the Department of Housing and Buildings of the City of New York, and

(b) The Commissioner has issued his Certificate of Acceptability to the Cooperative.

OCCUPANCY AGREEMENT

Each subscriber to stock in the Cooperative will be required to execute an occupancy agreement for the apartment to which his stock has been allocated. The form of the occupancy agreement will be available for inspection at the office of the sales representative.

PROCEDURE AND SUBSCRIPTION AGREEMENT

A deposit of $500 will be required from each applicant at the time he executes a subscription agreement and apartment application ("subscription agreement") and affidavits as to income, which can be obtained from the Cooperative.

The equity requirement for each type of apartment will be at the rate of $450 per room. The total equity requirements for such apartments are as follows:

TYPE	*TOTAL EQUITY REQUIREMENT*	*DESCRIPTION OF APARTMENTS*
A	$1,350	1 bedroom apartment with kitchen and living room, without balcony. (3 Rooms)
B	$1,575	1 bedroom apartment with kitchen, dining room and living room, without balcony. (3½ Rooms)
C	$1,800	1 bedroom apartment with kitchen, dining room and living room, with balcony. (4 Rms.)
D	$2,025	2 bedroom apartment with kitchen, dining room and living room, without balcony. (4½ Rooms)
E	$2,250	2 bedroom apartment with kitchen, dining room and living room, with balcony. (5 Rms.)
F	$2,700	3 bedroom apartment with kitchen, dining room and living room, without balcony. (6 Rooms)
G	$2,925	3 bedroom apartment with kitchen, dining room and living room, with balcony (6½ Rooms)
H	$3,150	3 bedroom town house apartment with kitchen, dining room and living room, with balcony. (7 Rooms)

Upon receipt by the Cooperative of the executed subscription agreement and affidavits as to income and the deposit of $500 from the subscriber, the Cooperative will credit such deposit against the subscription price required to be paid by the subscriber under the subscription agreement for each type of apartment, as above described, as follows:

Type A – $375
Type B – $375
Type C – $400
Type D – $425
Type E – $450
Type F – $475
Type G – $500
Type H – $500

The balance, if any, of the deposit shall be credited toward the purchase of the full equity requirements referred to herein.

Upon the selection of the particular apartment by the subscriber of the type hereinabove set forth, he shall invest a further sum equal to the amount of the total equity requirement for his apartment less the amount of the deposit, so that the total amount invested by the subscriber shall be equal to the total equity requirement for his apartment.

The subscriber may withdraw from the subscription agreement at any time prior to selecting the particular apartment which he desires to occupy, and shall, upon such withdrawal, be entitled to a refund, without interest, of all amounts paid thereunder. After the subscriber shall have selected an apartment he may also withdraw from the subscription agreement at any time prior to executing the occupancy

agreement (lease) for the apartment and shall, upon such withdrawal, be entitled to a refund, without interest, on all amounts theretofore paid as equity investment, but such refund shall not be paid by the Cooperative to the subscriber until the stock and/or other equity obligations subscribed for under the subscription agreement is sold to another applicant and the apartment selected by the subscriber has been assigned to such other applicant.

If the premises shall have been painted to the specifications of a withdrawing subscriber and as a result of such withdrawal, it will be necessary to repaint to make the apartment suitable for another subscriber, the cost of such repainting shall be deducted from the deposit, such cost to be approved by the Commissioner.

The Cooperative reserves the right at any time before an occupancy agreement is entered into with the subscriber, for any reason deemed sufficient by the Cooperative, in its sole discretion, subject to the approval of the Commissioner, to repay the amount paid to it by the subscriber. In the event that such repayment shall be made prior to the selection by the subscriber of a particular apartment, or in the event the subscription agreement is not approved by the Commissioner, such repayment shall be made without interest. In the event that such repayment is made after the subscriber shall have so selected an apartment, such repayment shall be made with interest thereon at the rate of 2% per annum from the date of such payments by the subscriber. Upon any such repayment by the Cooperative, all rights of the subscriber under the aforesaid subscription agreement will cease and terminate.

The subscription agreement is specifically subject to the provisions of the Limited-Profit Housing Companies Law, the Certificate of Incorporation and By-Laws, the building loan contract, any agreements which may be made or entered into between the Cooperative and the New York State Housing Finance Agency and any and all other contracts, agreements, mortgages, leases, and other instruments, and any and all modifications, renewals and extensions thereof entered into by the Cooperative before or after the execution of the subscription agreement, provided that the same have the written approval of the Commissioner. The subscription agreement further provides that all said contracts, agreements, mortgages, leases and other instruments and any and all modifications, renewals and extensions thereof, shall be determined by the Board of Directors of the Cooperative, in its discretion, subject only to the approval of the Commissioner.

Please read the subscription agreement for a more detailed statement of your rights and obligations.

MONTHLY CARRYING CHARGES

It is contemplated that the average monthly carrying charge for the entire development will be approximately $25.00 per room. This average monthly carrying charge is based on presently estimated construction and operating costs. The Cooperative will make every effort to keep such average monthly carrying charge within such range. However, it is possible that increases in costs may increase the average monthly carrying charge somewhat above the aforesaid level.

Many of the apartments will be below the average and many above. The carrying charges on specific apartments are determined by the location and exposure of the apartment.

The average monthly carrying charges do *not* include utilities. The Cooperative will purchase electric power and gas and will charge an additional monthly adjustment for these utilities averaging approximately $2.32 per room.

THE APARTMENTS

Final apartment plans are available for the subscribers called to select apartments.

Applicants who are accepted will be called to select their apartments in the order in which applications are filed. Apartments will be selected from large site plans and floor plans at the Applications Office.

MANAGEMENT

The right to determine the method of management of the Cooperative is vested in the Board of Directors, subject to the approval of

the Commissioner. The present Board of Directors will retain qualified management to serve for one year, subject to replacement or retentions thereafter by the then elected Board of Directors. The choice and qualification of the management shall be at all times subject to the approval of the Commissioner.

TAX BENEFITS

The City of New York has agreed to exempt the land and improvements in the completed development from real estate taxes, to the extent of 50% of the value thereof, for a period of not more than 30 years, commencing from the date on which the benefits of such exemption first become available and effective.

The cooperative ownership of the development has been designed to give purchasers of stock the benefits of income tax deductions allowable to tenant-stockholders of cooperative housing corporations under the provisions of Section 216 of the Internal Revenue Code; however, no representations are made that such deductions will be available to purchasers of stock. The present laws and regulations entitle tenant-stockholders of cooperative housing corporations who itemize their deductions, to deduct from their gross income for Federal, New York State and New York City income tax purposes their proportionate share of real estate taxes and interest paid by such cooperative corporations. The actual tax saving to an individual would depend upon the respective taxpayer's income tax bracket.

Neither the sales representative nor the Cooperative makes any warranties or representations that the various taxing authorities will hold that tenant-stockholders are entitled to the above income tax benefits and they shall not be liable if for any reason it be held that the Cooperative or any transaction does not meet, or at any future time ceases to meet, the requirements of law.

ESTIMATE OF EXPENSES

Schedules of the estimated development cost and of the estimated annual operating expenses and income for the first year of operation of the development, as prepared and approved by the Commissioner, are available for your inspection at the office of the sales representative.

COUNSEL FOR THE COOPERATIVE

The services of the law firm of Szold, Brandwen, Meyers & Altman, of 30 Broad Street, New York, New York, have been procured for the organization of the Cooperative, the acquisition of the site, the preparation of the subscription agreement, the occupancy agreement, this Information Bulletin, and all other matters requiring legal services in connection with the affairs of the Cooperative and the construction and financing of the development, at a fee approved by the Commissioner and shown in the schedule of the estimated development cost.

SALES REPRESENTATIVE

Community Services, Inc., of 465 Grand Street, New York, New York, has been retained by the Cooperative as sole agent for the sale of stock and/or other equity obligations and apartments in the development, at a fee approved by the Commissioner and shown in the schedule of the estimated development cost.

BEST COPY AVAILABLE

APPLICATIONS

Applications for Co-op City may be filed at the Applications Office of Community Services, Inc., 309 West 23rd Street, New York, New York 10011.

ACCOUNTANT

Apfel & Englander, of 347 Madison Avenue, New York, New York 10017, certified public accountants, have been retained by the Co-operative to supervise the keeping of its accounts, to periodically audit its books and to prepare the financial reports and statements required by the Commissioner, at such fee as the Commissioner shall approve.

INCOME LIMITATIONS

The Commissioner has fixed a maximum annual income for initial occupancy of apartments. If, after initial occupancy, your income should increase above the statutory limitations you may be surcharged in accordance with a schedule approved by the Commissioner.

ONE LAST WORD

Co-op City is being built for the benefit and enjoyment of many people. It has been determined a long time ago, that dogs, as lovely as they may be, are not conducive to enjoyable living in a development such as Co-op City. Dogs and other animals will not be permitted in Co-op City.

Modern laundry rooms will be located in each high-rise building. There will be a minimum charge for the use of washing machines and dryers. Individual clothes washing machines will not be permitted in the high-rise apartments.

STOCK AND/OR OTHER EQUITY OBLIGATIONS OFFER

The Cooperative invites offers for shares of its capital stock and/or other equity obligations for sale in units which will be allocated to the 15,372 apartments of the development all in accordance with the terms of the subscription agreement. Sales will be limited to bonafide residents of the State of New York over the age of 21 years.

No person has been authorized to make any representations in connection with this invitation for offers and no representations are or have been authorized to be made other than those herein contained.

CHANGES

No changes may be made in this Information Bulletin unless in writing, signed by a duly authorized officer of the Cooperative and approved by the Commissioner.

Dated: New York, New York
May 15, 1967.

(Revision of May 12, 1965 Information Bulletin)

RIVERBAY CORPORATION
(CO-OP CITY)

CO-OP CITY
Applications Office, 309 West 23rd Street, at 8th Avenue, Manhattan
Telephone No. 924-5115

EXHIBIT "3" - 1967 REVISED INFORMATION BULLETIN -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

HOW TO APPLY

1. Remove APPLICATION from centerfold, fill out completely, and sign.
2. Remove two copies of SUBSCRIPTION AGREEMENT from centerfold, and sign.
3. Mail completed and signed APPLICATION and a signed copy of SUBSCRIPTION AGREEMENT, with check for $500.00 deposit, payable to Riverbay Corporation, to

BEST COPY AVAILABLE

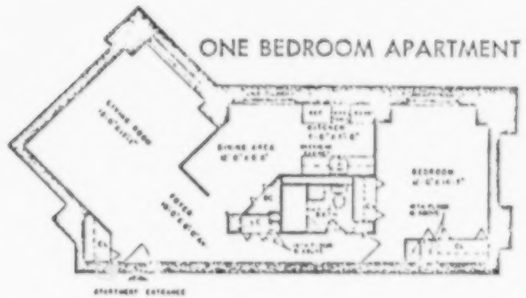
NOTE: The deposit required with application is $500.00, which will be applied toward the *full* required investment in accord with the terms of the enclosed Subscription Agreement.

CO-OP CITY APPLICATIONS OFFICE
309 W. 23rd St.
New York, New York 10011

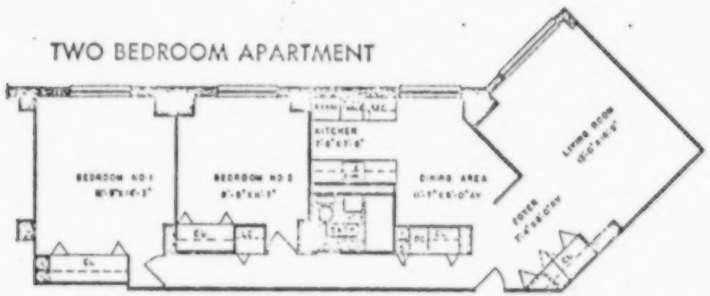
TYPICAL CO-OP CITY APARTMENTS

PLANS include one, two, and three bedroom apartments, with and without balconies.

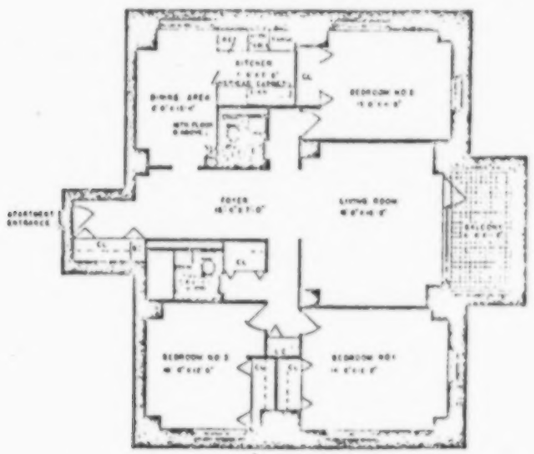
ONE BEDROOM APARTMENT



TWO BEDROOM APARTMENT



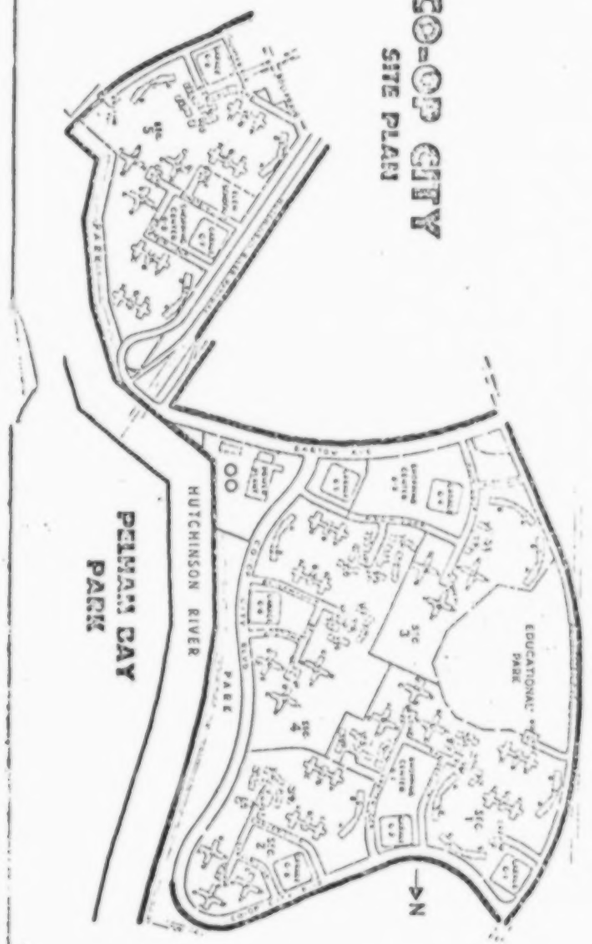
THREE BEDROOM APARTMENT



Buildings vary in size, shape, and height.

CO-OP CITY
309 WEST 23rd STREET
NEW YORK, N.Y. 10011

CO-OP CITY
SITE PLAN



Third Class Mail

CO-OP CITY
RIVERBAY CORPORATION
A COOPERATIVE HOUSING DEVELOPMENT

APT. # _____

Acc't. No. _____

No. of Rooms Desired: _____

APPLICATION FOR APARTMENT

I. IDENTIFYING INFORMATION

NAME _____ PHONE _____

ADDRESS _____

II. FAMILY COMPOSITION

Persons to Reside in Apt.	Relationship	Occupation	Date of Birth	Sex	Employed? Yes	No
1						
2						
3						
4						
5						
6						

III. EMPLOYMENT AND INCOME FOR EACH WAGE EARNER

Employer	Period of Employment	Current Pay	Earnings Last Year	Estimate Next Year
1 Name / Address		$	$	$
2 Name / Address		$	$	$
3 Name / Address		$	$	$

Total Annual Earnings $ _____

Other Income (includes bank interest and stock dividends)

_____ $ _____

_____ $ _____

Total Income $ _____

IV. REAL PROPERTY (Specify and Describe)

_____

_____

	Name	Address
V. REFERENCES: Personal		
Business		
Bank		

VI. GENERAL REMARKS: _____

The above information is correct to the best of my/our knowledge. I/we have no objection to inquiries for the purpose of verifying the facts herein stated.

Signed _____

Date _____ Signed _____

As Joint Tenants with Rights of Survivorship

This application is taken subject to provisions of an "Apartment Subscription Agreement" to be entered into and to the approval of the State Division of Housing.

Prepared in the office of the Corporation.

For Office Use Only

Down Payment
$ _____

Carrying Charge
$ _____

No. in Family
_____ persons

Size of Unit Required
_____ rooms

Applicable Ratio
6 x _____
7 x _____

Maximum Income Limit for size apartment
$ _____

Eligible _____

Ineligible _____

200a

actually inserted at centerfold of Bulletin

EXHIBIT "3" 1967 REVISED INFORMATION BULLETIN - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

(Application for Apartment, attached hereto, and Subscription Agreement and Apartment Application, reproduced herein at pages 104a to 107a were actually inserted at centerfold of Bulletin)

Construction Contract - For City

HCLP No. 64-571...

THIS CONTRACT made as of the 18th day of June, 1965, between

COMMUNITY SERVICES, INC.,

hereinafter referred to as "Contractor," a domestic Corporation authorized to do business in the State of New York having an office at 465 Grand Street, New York, New York

and RIVERBAY CORPORATION

hereinafter referred to as "Owner," a domestic corporation organized and existing under and by virtue of the Limited Profit Housing Companies Law of the State of New York, constituting a mutual company thereunder, having its principal office at 465 Grand Street, New York, New York;

WITNESSETH, that the Contractor and the Owner for the consideration hereinafter set forth, agree as follows:

ARTICLE 1 — Scope of Work

The Contractors shall furnish all of the materials and perform all of the work required by the Contract Documents in connection with the erection and equipping of certain buildings and improvements (hereinafter referred to as the "Project") on a site generally bounded by the Hutchinson River Parkway, the New England Thruway and the Hutchinson River, in the Borough of The Bronx, City of New York, and more particularly described and delineated in said Contract Documents which consist of the following:

(a) Preliminary Plans and Specifications and Addendum, dated as of the 18th day of June, 1965, approved by the Commissioner of Housing and Community Renewal (hereinafter referred to as the "Commissioner"), as of the 18th day of June, 1965, and any Drawings and the Final Plans and Specifications hereafter approved by the Commissioner.

The Specifications shall include the General Conditions of the Contract for the Construction of Buildings, (hereinafter referred to as the "General Conditions"), consisting of Articles 1 through 44, Standard Form, current edition of the American Institute of Architects (except as specifically modified in the Supplementary General Conditions attached to said Specifications, or by this Contract), all of which are made a part hereof as if fully set forth herein. If anything in said General Conditions or said Supplementary General Conditions is inconsistent with this Contract, then this Contract will govern. The Preliminary Plans and Specifications have been prepared by Herman J. Jessar, (hereinafter called the "Architect." A duplicate original of said Preliminary Plans and Specifications and Addendum, dated as of the 18th day of June, 1965, entitled "Preliminary Plans and Specifications for Co-op City" and any Drawings and the Final Plans and Specifications shall be placed on file with the Division of Housing and Community Renewal, (hereinafter referred to as

the "Division"), and when so filed shall govern in the manner hereinbefore provided (except as may be modified by the Final Plans and Specifications and Drawings prior to the performance by the Contractor of any stage of construction referred to in Article 2 hereof and as may be modified under Article 12 hereof) in all matters which may arise with respect to any Drawings, Plans, Specifications, General Conditions and Supplementary General Conditions and the provisions thereof.

(b) This instrument and exhibits hereto attached or herein referred to.

(c) Payment and Performance Bonds in the form attached herewith as Exhibit I. Said bonds shall be in such amounts and applicable to such subcontracts of the Contractor as the Commissioner of Housing and Community Renewal (hereinafter referred to as the "Commissioner") shall approve in writing prior to and in connection with the stages of construction as hereinafter defined in Article 2.

(d) Schedule "A" dated June 17, 1965 made by the Owner and approved by the Division, a copy of which Schedule is attached hereto and made a part hereof, hereinafter referred to as "Schedule 'A'."

(e) Building Loan Agreement hereafter to be entered into by and between the Owner and the New York State Housing Finance Agency (hereinafter referred to as the "Lender").

All the services, materials, costs and expenses included in this Contract (hereinafter referred to as the "Work") comprise the following item of Schedule "A": Item 1, entitled "Construction Costs."

With respect to same, other than items 1f and 1g, the Contractor guarantees payment for said items notwithstanding that the actual cost for said items may exceed the amounts therein set forth.

The Contractor hereby represents that the Test Borings have been made to its full satisfaction.

ARTICLE 2 — Time of Completion

The Work to be performed under this Contract shall be commenced on or before the 1st day of August, 1965, and shall be completed in accordance with the Contract Documents to the satisfaction of the Architect, the Lender and the Commissioner within 60 months thereafter, unless said time be extended in writing by the Owner with the prior written approval of the Commissioner. In no event, however, shall the Work to be performed under this Contract be considered to be completed until all construction items called for in the Contract Documents have been fully completed and all of the conditions of this Contract shall have been fully complied with. It is expressly agreed, however, that in no event shall the Contractor or any Surety be liable for any delay or damage resulting from, or for the construction or repair of, any work damaged or destroyed by any act of God or the public enemy or strikes or by reason of governmental preemption of materials or labor; and the Contractor shall not be liable for any cessation of Work or delay in performance of Work caused by order of the Division, or Commissioner unless such order is issued because of failure of the Contractor to comply with the terms of this Contract.

For the purposes of developing the entire Project, the construction of any part thereof shall be in accordance with such stages as shall be determined by the Owner and Contractor, subject to the written approval of the Commissioner and Lender. The construction shall be performed in such stages and in accordance with the final plans and specifications for each such stage as approved in writing by the Commissioner prior to the commencement of construction for each such stage. Such stages shall be as prescribed and defined in one or more Supplemental Agreements among the parties hereto, substantially in the form attached herewith as Exhibit

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II, which, upon the execution and approval thereof, shall thenceforth constitute a part of this Contract with the same force and effect as if incorporated herein.

ARTICLE 3 — The Contract Price

The Owner shall pay the Contractor for the performance of the Work embraced by this Contract, subject to additions and deductions provided herein, the sum of Two Hundred Fifty-Eight Million Five Hundred Seven Thousand Seven Hundred ($258,507,750 Fifty) Dollars (hereinafter referred to as the "Contract Price"), subject to the method of payment hereinafter provided.

All changes in the Contract Documents must be in writing, signed by the Owner and the Contractor, and shall be conditioned upon the written approval of the Division or Commissioner, which approval may be subject to such conditions and qualifications as the Division or Commissioner in their discretion, may prescribe, it being understood that the Division or Commissioner at all times has the right to require compliance with the original Contract Documents.

ARTICLE 4 — Schedule of Payments

Applications for payments, (hereinafter sometimes referred to as "Requisitions"), under this Contract are to be made by the Contractor to the Owner, in ten copies, in the manner hereinafter provided. The sum to which the Contractor shall be entitled upon any such payment shall be the total of the purchase price of uninstalled materials stored on the mortgaged property or offsite, in a manner acceptable to the Division, plus the cost of the portions of the Work acceptably completed plus a pro rata payment on account of non-auditable allowances included in Schedule "A" and referred to in Article 19 and 20 hereof, less 10% holdback on Items 1 (Construction Costs) of Schedule "A", and less prior advances; except that with respect to that portion of the Work applicable to filling, excavation, piles, foundations and superstructure, the holdback shall be 5%, and less prior advances. Notwithstanding anything to the contrary in this paragraph, with respect to the following portions of the Work, holdback deductions shall not be applicable:

a. With respect to the residential buildings (Item 1.a.1 of Schedule "A")

(1) Water, electricity and other public utility costs (excluding, however, the cost applicable to the Contractor's overhead provided under Article 19 hereof) during construction;

(2) Temporary heat during construction;

(3) Insurance during construction;

(4) Direct labor and watchmen;

(5) Air conditioning units, aluminum windows, refrigerators, ranges, hardware, venetian blinds, medicine cabinets and incinerators, provided, however, that notwithstanding Article 15 hereof, the Contractor's selection of the applicable materialmen shall first be subject to the approval of the Division.

b. With respect to the power plant, including piles (Item 1.a.3 of Schedule "A"):

(1) Boilers, steam turbine generators;

(2) Diesel engines and condensers;

(3) Steam absorption units;

(4) Cooling towers;

(5) Switch gear;

(6) Power house substation;

(7) Apartment buildings substations;

(8) Motor control centers;

(9) Circulating and boiler feed pumps;

(10) Overhead cranes.

c. With respect to the following portions of the work applicable to the entire project:

(1) The mobilization fee of $500,000 for the land fill contract (Item 1.b.2 of Schedule "A");

(2) The Work pursuant to the Agreement with The City of New York (Item 1.c of Schedule "A");

(3) Test borings (Item 1.d of Schedule "A");

(4) Payment and Performance bonds for subcontractors (Item 1.e. of Schedule "A").

At any time after fifty per cent (50%) of the Work required for any stage of construction has been completed, if the Owner and the Commissioner agree, the Owner shall make monthly payments for the Work which may still remain to be done for such stage of construction without making any holdback deduction and for the difference, if any, between the amount of the holdback at the time of such agreement and the amount of holdback applicable when fifty per cent (50%) of the Work for such stage was completed. After the Commissioner has determined that any such stage has been substantially completed, the remaining holdback for such stage may be paid from time to time and in such amounts as the Commissioner shall approve.

The value of any Work included in a Requisition for partial payment which may be unsatisfactory may be deducted from any subsequent Requisition.

In the event that it is necessary for the Contractor, with the approval of the Division, to store any materials offsite, then the Contractor shall be responsible for insurance and warehousing charges, and such charges shall be included in "total cost of the Work" under Article 20 hereof.

Prior to the submission of its first Requisition for a partial payment, the Contractor shall present to the Owner and the Division for approval a trade payment breakdown, in a form as prescribed by the Division, which must contain the amount estimated for each stage of the Work. These amounts, as adjusted to meet the approval of the Owner and the Division, shall not be changed after approval by the Owner and the Division except by written approval of the Commissioner. In the event the progressive audit provided under Article 20 hereof indicates that payments made hereunder exceed the audited cost of the Work as referred to in Article 20, then the Division reserves the right to require revision of the trade payment breakdown or an increase in the holdback, or both, in order to correct such conditions of overpayment. The value employed in making the trade payment breakdown will be used only as a guide for determining the size of the partial payments and to supply statistical information required by the Owner, the Division and the Lender and will not be considered as fixing a basis for additions or deductions from the Contract Price. The trade payment breakdown so prepared shall thereupon become a part of the Contract as if it had been fully set forth herein at the time of the execution of the Contract. Requisitions shall be filed by the Contractor by the 25th day of each month and payment shall be made on or about the 10th day of the following month. The Contractor shall only be entitled to payment in the amount approved by the Owner, the Division and the Lender with respect to said Requisitions.

Upon completion of the Work, the balance due the Contractor hereunder shall be payable to the Contractor by the Owner, in the manner hereinafter provided, with the approval of the Division and the Lender, within thirty (30) days from the date of final completion of this Contract, as determined by the Commissioner; provided, however, that this Contract shall not be considered complete for purposes of final payment unless and until all the Work requiring inspection by municipal or other governmental authorities having jurisdiction has been duly inspected and approved by such authorities and by the applicable Board of Fire Underwriters,

if any, and all requisite certificates of occupancy and other approvals and guarantees have been duly issued and the "total cost of the Work" is determined by audit as set forth in Article 20 and agreed to by the parties hereto and the Commissioner.

ARTICLE 5 — Building Loan

The Contractors understand that the Work herein provided to be done is to be financed by a building loan secured by a mortgage, the terms of which are set forth in the Building Loan Agreement between the Lender and the Owner (plus such sums as may be received by the Owner on the sale of its stock to Cooperator tenants).

ARTICLE 6 — Submissions and Approvals

Anything contained herein to the contrary notwithstanding, whenever any statements, documents or data of any sort, nature or description are required under this Contract to be submitted to the Architect or Owner, or both, duplicates of such statements, documents or data shall be likewise submitted to the Division and the Lender if requested by them, or either of them, or by their duly constituted representatives. Whenever it is provided in this Contract that the approval of, a certificate or order from, the Architect shall be received either as a condition precedent to any action being taken or not taken, as the case may be, or as a prerequisite to the exercise by the parties hereto of any right or rights hereunder, including the right to receive payment under this contract, the Division or the Lender may require that such approval and such certificate or order shall, before being effective, be accompanied by the written approval of the Division and the Lender.

ARTICLE 7 — Mechanics' Liens

If ... mechanics' liens or other claim or claims shall be filed or maintained against the buildings, improvements or real estate appurtenant thereto, for or on account of any Work under this Contract in furtherance of the erection, construction and completion of the Work contracted for herein, then it shall be the obligation of the Contractor to make provision satisfactory to the Division and Lender for the satisfaction of such liens or claims.

ARTICLE 8 — Receipts and Releases of Lien

The Owner or the Division may require the Contractor to obtain and attach to each requisition acknowledgments of payments down to the date covered by the last advance from all subcontractors and materialmen dealing directly with the Contractor. In any event, the Contractor shall furnish an affidavit that all subcontractors and materialmen have been paid down to the date covered by such last advance. Concurrently with any final payment for any stage of construction, the Contractor shall submit, in duplicate, an affidavit certifying that there are no liens, claims or demands by subcontractors, materialmen, laborers, other employees or third persons applicable to such stage of construction. General releases and releases of all claims based upon which a mechanic's lien may be asserted by the Contractor or any subcontractor shall be furnished to the Owner and shall cover all work, labor and materials including equipment and fixtures of all kinds performed for or furnished to the Owner, the Contractor, subcontractors and materialmen.

ARTICLE 9 — Assignability of Contract

The Contractor shall not assign this Contract or any amount payable hereunder without the prior written consent of the Commissioner and the Lender. The Contractor, upon request, shall disclose to the Division and to the Lender the names of all persons with whom it has contracted

or intends to contract or hereafter contracts with respect to the Work hereunder. The Owner may assign this Contract or any rights arising hereunder, including any guarantees or warranties of workmanship or material, to the Division or the Lender.

ARTICLE 10 — Employment Practices

(a) *Prevailing Wages*

The Contractor and each Subcontractor agree to pay prevailing wages; and in order to enable the Contractor to determine whether such wages are being paid by the Subcontractor, each subcontract shall provide that the Contractor and the Division shall have the right to inspect the Subcontractor's books, payrolls and accounts with respect to the subcontract from time to time for the purpose of verifying whether prevailing wages are being paid by the Subcontractor. The union scale of wages paid in the locality for the work of such laborers and mechanics so employed shall be accepted by the parties hereto as the prevailing wages for such work.

Upon failure of the Contractor or any Subcontractor to comply fully with the provision of this Section, the Owner may, in his own discretion, or shall, at the direction of the Commissioner, withhold from the Contractor hereunder any payments or advances payable to the Contractor hereunder until the Contractor establishes to the satisfaction of the Division that all laborers and mechanics or other persons employed in the Construction of the Project have been paid prevailing wages as hereinabove referred to.

(b) *Non-Discrimination Clauses*

During the performance of this Contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color or national origin, and will take affirmative action to insure that they are afforded equal employment opportunities without discrimination because of race, creed, color or national origin. Such action shall be taken with reference, but not limited, to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.

(2) The Contractor will send to each labor union or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice, to be provided by the State Commission for Human Rights advising such labor union or representative of the Contractor's agreement under clauses (1) through (8) (hereinafter called "nondiscrimination clauses"). If the Contractor was directed to do so by the Commissioner as part of the bid or negotiation of this Contract, the Contractor shall request such labor union or representative to furnish it with a written statement that such labor union or representative will not discriminate because of race, creed, color or national origin, and that such labor union or representative either will affirmatively cooperate, within the limits of its legal and contractual authority, in the implementation of the policy and provisions of these nondiscrimination clauses or that it consents and agrees that recruitment, employment and the terms and conditions of employment under this Contract shall be in accordance with the purposes and provisions of these nondiscrimination clauses. If such labor union or representative fails or refuses to comply with such a request that it furnish such a statement, the Contractor shall promptly notify the State Commission for Human Rights of such failure or refusal.

(3) The Contractor will post and keep posted in conspicuous places, available to employees and applicants for employment, notices to be provided by the State Commission for Human Rights setting forth the substance of the provisions of clauses (1) and (2) and such provisions of the State's laws against discrimination as the State Commission for Human Rights shall determine.

(4) The Contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color or national origin.

(5) The Contractor will comply with the provisions of Section 291-299 of the Executive Law and the Civil Rights Law, will furnish all information and reports deemed necessary by the State Commission for Human Rights under these nondiscrimination clauses and such sections of the Executive Law, and will permit access to their books, records and accounts by the State Commission for Human Rights, the Attorney General and the Commissioner for purposes of investigation to ascertain compliance with these nondiscrimination clauses and such sections of the Executive Law and Civil Rights Law.

(6) This Contract may be forthwith canceled, terminated or suspended, in whole or in part, by the Commissioner upon the basis of a finding made by the State Commission for Human Rights that the Contractor has not complied with these nondiscrimination clauses and the Contractor may be declared ineligible for future contracts made by or on behalf of the State or a public authority or agency of the State, or contracts requiring the approval of the Commissioner until they have satisfied the State Commission for Human Rights that they have established and are carrying out a program in conformity with the provisions of these nondiscrimination clauses. Such findings shall be made by the State Commission for Human Rights after conciliation efforts by the State Commission for Human Rights have failed to achieve compliance with these nondiscrimination clauses and after a verified complaint has been filed with the State Commission for Human Rights, notice thereof has been given to the Contractor and an opportunity has been afforded it to be heard publicly before three (3) members of the State Commission for Human Rights. Such sanctions may be imposed and remedies invoked independently of or in addition to sanctions and remedies otherwise provided by law.

(7) If this Contract is canceled or terminated under Clause (6), in addition to other rights of the Owner, Commissioner or Lender provided in this contract upon its breach by the Contractor, the Contractor will hold the Owner and the Lender harmless against any additional expenses or costs incurred by the Owner and/or the Lender in completing the Work or in purchasing the services, materials, equipment or supplies contemplated by this Contract, and the Owner and/or the Lender, at the direction of the Commissioner, shall withhold payments from the Contractor in an amount sufficient for this purpose and recourse may be had against the surety on the performance bond if necessary.

(8) The Contractor will include the provisions of clauses (1) through (7) in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to operations to be performed within the State of New York. The Contractor will take such action in enforcing such provisions of such subcontract or purchase order as the Commissioner may direct, including sanctions or remedies for non-compliance. If the Contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Commissioner, the Contractor shall promptly so notify the Attorney General, requesting him to intervene and protect the interests of the State of New York and the Lender.

ARTICLE 11 — Permits and Surveys

Notwithstanding any other provisions of the Contract Documents which form a part hereof, the Contractor shall furnish and pay for all permits and surveys including but not limited to, licenses, tools, equipment, utilities and temporary structures necessary for the construction of the Project as required.

The Contractor shall also furnish to the Owner and the Title Insurance Company or Companies insuring the interests of the Lender, with five copies to the Division, a survey showing the location on the site of the improvements existing thereon. Such survey shall be brought up to date with each Requisition in accordance with such requirements as the Lender or the Commissioner may from time to time direct. The minimum standards for all surveys shall be as set

forth in Exhibit III attached hereto. All surveys shall be certified to the Lender, the Commissioner and the aforesaid title companies and must bear the name, address and signature of the licensed surveyor who made such survey, his metal seal or license number, and the date of such survey. The survey accompanying the requisition for final payment must show the exact location of all improvements, utilities including water, sewers, gas and electric services and of all easements for such utilities then existing. The licensed surveyor preparing such survey shall certify that the Project is installed and erected entirely upon the site secured by the mortgage referred to in Article 3 hereof, and within the building restriction lines, if any, on said site, and does not overhang or encroach upon any easement or right-of-way of others except as permitted by franchise or permission of the City of New York or any other governmental authority. Any deviation from the Contract Documents with respect to the location on the site of the improvements shall be the sole responsibility of the Contractor and the cost of repair shall not be chargeable as part of the "total cost of the Work" defined in Article 20 hereof.

The Contractor shall furnish the Owner, the Lender and the Division, upon demand of the Division, quantity surveys, made by an independent outside agency, of all material required in connection with this Contract.

The cost of all such permits, surveys, and such other items referred to in this Article, in amounts approved by the Division, shall be included in the "total cost of the Work" under Article 20 hereof.

ARTICLE 12 — Change Orders and Proceed Orders

The Contractor shall not be required to perform any additional or extra work ordered by the Owner and/or the Division unless a change order or proceed order for such extra work shall be first agreed upon between the Owner and the Contractor and approved by the Division in writing. Only on each change order for extra work which increases the Contract Price, the Contractor shall be allowed an amount equal to [illegible] per cent (1.5%) of the amount of such change order as Contractor's profit and overhead. With respect to work deleted by means of a credit change order, no deduction shall be made in the amount set forth in Article 20 hereof.

ARTICLE 13 — Insurance

Anything to the contrary contained in the General Conditions notwithstanding, the Contractor agrees that the following insurance shall be obtained and paid for by it and be in effect at such time as the Division directs:

1. Builder's Risk Fire Insurance With Extended Coverage on a completed value basis for full insurable value covering the interest of the Owner and the Contractor (and containing a waiver of subrogation against the Contractor's subcontractors or subsubcontractors) upon all work incorporated in the structures and all materials and equipment, on or about the premises intended for permanent use in the structures or incident to the construction thereof, the cost of which is included in the Work hereunder, but not including the machinery, tools or equipment used by the Contractor, its subcontractors and subcontractors in the performance of the Work.

2. Broad Form Comprehensive General Liability Insurance covering the Contractor with limits of $500,000/$1,000,000 for bodily injury plus $500,000/$1,000,000 property damage.

3. Workmen's Compensation and Employer's Liability Insurance covering the Contractor.

4. Owner's Protective Liability Insurance covering the Owner with limits of $500,000/$3,000,000 for bodily injury plus $500,000/$1,000,000 property damage.

The policies of such insurance shall be in such form and with such companies as shall be approved by the Owner, the Division and the Lender and copies of all insurance policies shall be delivered to the Owner and the Division prior to the aforesaid effective date. The cost of such insurance shall be included in the "total cost of the work" as defined in Article 20 hereof.

The Contractor further agrees to indemnify and save harmless the Owner, the State of New York, and the Lender, against loss or expense by reason of the liability imposed by law upon the Contractor, the Owner, the State of New York and the Lender, for damages because of bodily injuries, including death at any time resulting therefrom, accidentally sustained by any person or persons or on account of damage to property arising out of or in consequence of the performance of this Contract, whether such injuries to persons or damage to property are due or claimed to be due to any negligence of the Contractor, his or their employees or agents, or any other person.

ARTICLE 14 — Execution of Instruments

The Owner shall, in writing, designate an officer or officers of Owner as its representative with full authority to execute any and all instruments requiring the signature of the Owner and to act in behalf of the Owner with respect to all matters arising out of this Contract.

The Owner will execute all bonds, notes, mortgages, agreements, certificates, affidavits, applications and other instruments which may be required by the Division and/or the Lender and/or utility companies, in connection with or necessary for the closing transaction with the Lender and the performance of this Contract by the Contractor, and will execute applications and such other instruments as the Division and/or the Lender may require for advances under the Building Loan Agreement and Mortgage, until full and final payment to the Contractor of all sums due it under this Contract, and the discharge from all obligations under the Contract or Payment and Performance Bonds to be furnished hereunder.

If any such agreement or instrument so to be executed by the Owner shall require the approval of the Commissioner as a prerequisite to its legality or if any such agreement or instrument shall not be binding upon or enforceable against the Owner unless and until approved by the Commissioner then and in such event, the Owner shall deliver to the Contractor, at the time that each such agreement or instrument shall be executed by the Owner, the written approval and consent of the Commissioner to the execution of such agreement by the Owner. Whenever the approval of the Commissioner is required under the terms of this Contract, such approval may be given by his duly authorized representative employed by the Division.

ARTICLE 15 — Subcontracts

The Contractor shall be the sole judge as to the selection of subcontractors and materialmen and of the amounts to be paid to them for work performed and material furnished, and may revise, amend, modify or cancel any contract or agreement made with any subcontractor or materialmen as, in the discretion of the Contractor, may be necessary or advisable but such revision, amendment, modification or cancellation shall not add to the "total cost of the Work" as defined in Article 20 hereof, if disapproved in writing by the Division, within thirty (30) days after submission in writing to the Division and to the Owner by the Contractor. The Contractor shall maintain in its files all proposals received by it from subcontractors and materialmen including detailed proposals covering any change order issued as a result of a revision, amendment, or modification. In addition to the foregoing, the Contractor shall supply the Division with two (2) copies of all subcontracts to be delivered promptly after execution, plus two (2) copies of all revisions, amendments or modifications issued by the Contractor to any subcontractor. No payment shall be made on account of work performed by a subcontractor under a subcontract unless there shall have been filed with the Division, prior to the submission of a requisition for each payment, two (2) copies of such subcontract containing the provisions required by this Contract to be contained therein.

The Contractor agrees to include a provision in all subcontracts that in order to enable the Commissioner to verify the Contractor's costs, the Commissioner reserves the right to have his representatives obtain access during working hours to the books of account and records of the Subcontractors relating to the Work under this Contract, including the right to make excerpts from such books and records.

Notwithstanding the provisions of this Article 15, if the Contractors or any officer or director of the Contractor, or any stockholder holding ten per cent (10%) or more of the voting stock of the Contractors, or any person having directly or indirectly an interest of ten per cent (10%) or more in the Contractor, also is a subcontractor or materialman, or is an officer or director of a subcontractor or materialman, or stockholder holding ten per cent (10%) or more of the voting stock of the subcontractor or materialman, or any person having directly or indirectly an interest of ten per cent (10%) or more in the subcontractor or materialman, then the Contractor shall certify, prior to receiving any final payment hereunder that the amount paid to such subcontractor or materialman was a fair and reasonable price for the work and/or materials furnished by such subcontractor or materialman. Only such fair and reasonable price shall be considered in determining the "total cost of the Work" pursuant to Article 20 hereof.

ARTICLE 16 — Completion and Final Payment Under Building Loan

If all the Work required under said Contract Documents shall have been substantially completed as determined by the Commissioner, the Owner will, at the request of the Division, provided the Lender shall concur therein, establish an escrow fund in such amount and subject to such conditions as the Division may require, to cover the cost of completion of such Work in order to expedite payment of the final advance under the Building Loan Agreement.

ARTICLE 17 — Payment and Performance Bonds

The Contractor shall cause to be furnished to the Owner and the Lender five copies of the executed Payment and Performance Bonds required pursuant to Article 1, subparagraph (e) therein, and any Supplemental Agreement referred to in Article 2 hereof, to secure the faithful performance of the applicable Work and as security for the payment of all subcontractors and materialmen performing labor or furnishing materials in connection with the applicable Work, prepared on the forms of Bonds attached herewith as Exhibit I, and having such surety or surety companies thereunder as are approved by the Lender and the Division.

ARTICLE 18 — Payment of Building Loan Advances to Contractors

The Owner agrees to pay over to the Contractor all payments on account of all items covered by this Contract, provided it is entitled to receive them, promptly upon the receipt thereof from the Lender, and such payments shall be received by the Contractor on account of the Contract Price. A representative of the Owner, who shall have authority to execute receipts, endorsements and other instruments on behalf of the Owner, shall attend at all payments to be made by the Lender, if requested by the Lender. The Owner shall give the Contractor prior notice of the time and place of each such payment.

ARTICLE 19 — Non-Auditable Allowances

The sum of $2,000,000 , included in the above specified Contract Price, shall compensate the Contractor for the following items: Contractor's home office overhead in connection with the construction items of the Project; miscellaneous traveling and expediting costs; bookkeeping expenses; the Contractor's legal and accounting expenses.

ARTICLE 20 — Audits and Determination of Savings Under Contract

Within twenty (20) days after completion of the Project, but prior to the final payment for all the Work required hereunder, the Contractor shall deliver to the Owner and to the Division, an audit prepared by the Contractor's Certified Public Accountant, certifying the total costs, charges and expenses heretofore and hereafter paid and/or incurred by the Contractor and/or the Owner in the performance of this Contract within the scope of Article 2, but exclusive of all sums paid and/or incurred by the Contractor for the items set forth in Article 19 hereof with

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respect to which no audit shall be made or delivered. To the total costs, charges and expenses incurred by the Contractor and/or the Owner in connection with this Contract, including change orders but exclusive of all sums paid and, or incurred by the Contractor for the items set forth in Article 19 hereof there shall be added the sum of $. 2,000,000 ..., to cover the costs and expenses set forth in Article 19 hereof, whether such costs and expenses be more or less than the said sum $. 2,000,000 ... The total of the foregoing sums are hereafter in this article referred to as "total cost of the Work." If the total of the original Contract Price provided in this Contract, and the debit and credit change orders as agreed to by the parties hereto and approved by the Commissioner shall be greater than the "total cost of Work," the amount by which it exceeds the "total cost of the Work" shall be considered a saving. The Owner shall be entitled to such saving provided, however, that any surety shall not be liable for the return of such saving.

Change orders issued by the Owner to the Contractor pursuant to the terms of this Contract for extra work or to delete work shall indicate on the face thereof the amount, if any, by which the Contract Price shall be adjusted thereby and the amounts or maximum amounts which shall be included in or recognized as costs, charges or expenses, to the extent paid and/or incurred by the Contractor and/or the Owner in the performance of this Contract, or by which the applicable subcontracts shall be adjusted.

Any New York City Gross Receipts Tax that may be assessed, levied or imposed upon the Contractor in connection with the payments to be made hereunder by the Owner to the Contractor shall constitute a charge, cost and expense to be included in the "total cost of the Work" under this Article 20.

The Division and the Owner shall each have the right to make its own independent audit of the Contractor's costs progressively during the course of the Work and upon completion of the Work.

The audit by the Division to determine the Contractor's costs and savings hereunder shall be binding and conclusive upon the parties hereto unless within thirty (30) days after the delivery thereof, the Contractor or Owner shall notify the Division in writing that the determinations made in said audit are not acceptable. In such event and within a period of thirty (30) days after such delivery, the Owner or the Contractor may, each at its own expense, cause an audit to be made by an accountant of its own choice certifying the total costs, charges and expenses heretofore and hereafter paid and/or incurred by the Contractor and/or the Owner in the performance of this Contract, but exclusive of all sums paid and/or incurred by the Contractors for the items set forth in Article 19, hereof, with respect to which no audit shall be made, and if, within ten (10) days after the completion and delivery thereof, the parties hereto are unable to agree upon the amount of such savings, if any, the items in dispute including any deposit which arose out of the Work included in this Contract, shall be submitted to arbitration in accordance with the rules of the American Arbitration Association. In the event the Owner and/or the Contractor fails to make and deliver an audit, then any matters may proceed to arbitration as hereinbefore provided. The Owner may adopt the audit of the Division as its own for the purpose of such arbitration. The decision pursuant to any arbitration shall be binding upon the parties hereto, if accepted by the Commissioner, who does not intend to surrender any of his powers and duties under the Private Housing Finance Law notwithstanding any provision in any of the Contract Documents to the contrary. The cost of such arbitration shall be borne equally by the Owner and the Contractor. Such audit and/or arbitration expenses incurred by the Contractor shall not be subject to reimbursement.

The Contractor agrees that the representatives of the Division shall have full and free access without delay, during working hours, to all books of account and records of the Contractor relating to the Work under this Contract, including the right to make photostatic copies of or excerpts or transcripts from such books of account and records and related and supporting documents and statements, including but not limited to bank statements, checks paid by banks and check book stubs. The Contractor agrees to maintain said books and records at 461 Grand ... Street, New York, New York .....

Facilities for the Auditor shall be provided including a desk, chair, adding machine, and telephone at the home offices of the Contractor and the Owner.

Separate bank accounts as prescribed by the Division or Lender and Books of account and records shall be maintained by the Contractor in connection with this Contract. Entries shall not be made therein with respect to any other job of the Contractors. The separate books of account shall include, but need not be limited to: General Ledger, Cash Receipts Book, Cash Disbursements, Voucher Register, Payroll Register, Insurance Register and Contractor's Ledger. All disbursements under this Contract shall be made by check from the separate bank account or accounts established by the Contractor. No deposits therein or withdrawals therefrom shall be made by the Contractor with respect to any other construction job. The Contractor shall use the Uniform System of Accounts prescribed by the Division in the accounting required for this Contract.

For the purpose of determining savings, if any, the "total cost of the Work" shall be determined by the Division without regard to the overrun or nonerrun on any specific item set forth in Schedule "A" and included in this Contract provided that nothing herein contained shall be deemed to limit the right of the Division to determine whether or not any item of actual cost is properly includible in the "total cost of the Work."

ARTICLE 21 — Contract Under Private Housing Finance Law

The Contractor understands and recognizes that the Owner is a limited-profit housing company and that the Owner and this Contract are subject to the provisions of the Private Housing Finance Law and the rules, regulations and supervision of the Commissioner. It is further agreed that this Contract shall not become effective prior to approval thereof by the Commissioner.

ARTICLE 22 — Sole Agreement of Parties Contained in This Contract

It is agreed and understood that all understandings and agreements heretofore had between the parties hereto are merged in this Contract which fully and completely expresses their agreement. This Contract shall not be modified or amended except by written agreement, between the parties, approved by the Commissioner.

ARTICLE 23 — Captions

The captions used for the Articles in this Contract are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of the intent of this Contract, or any Article thereof.

In Witness Whereof, the parties hereto have executed this Contract as of the day and year first above set forth.

Contractor:

(seal)

By: .....
Vice-President

Owner:

(seal)

By: .....
President

Approved this 15th day

of ....., 1965

.....
Commissioner of Housing and
Community Renewal of The
State of New York

EXHIBIT "4" - CONSTRUCTION CONTRACT, DATED JUNE 18, 1965 - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.

On this 18... day of ...June....., 1965 before me personally came ..HAROLD OSTROFF....., to me known, who being by me duly sworn did depose and say that he resides at 3915 Orloff.. Avenue, Bronx, New York .....

that he is the .Vice ..... President of COMMUNITY SERVICES, INC. ....., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; that he signed his name thereto by like order.

Walter Berger
Notary Public

WATTIE BERGER
Notary Public, State of New York
No. 24-5205615
Qualified in Bronx County
Commission Expires March 30, 1966

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.

On this 18... day of ...June....., 1965 before me personally came .ABRAHAM E. KAZAN....., to me known, who being by me duly sworn did depose and say that he resides at ..130 Gale.... Place, Bronx, New York .....

that he is the ..... President of RIVERBAY CORPORATION ....., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; that he signed his name thereto by like order.

Walter Berger
Notary Public

WATTIE BERGER
Notary Public, State of New York
No. 24-5205615
Qualified in Bronx County
Commission Expires March 30, 1966

SCHEDULE A

Date: June 18, 1965

Name of Project: RIVERBAY CORP. (CO-OP CITY) (X) Cooperative

Address of Project: BRONX, NEW YORK ( ) Rental

ESTIMATED DEVELOPMENT COSTS AND CAPITAL REQUIREMENTS

		(1)	(2)	(3)	(4)
1. CONSTRUCTION COSTS					
a. 1. Residential Structures		$183,120,000			
2. Commercial Structures & Community Spaces		$ 7,750,000			
3. Garages (Including Piles)		$ 17,000,000			
4. Site Work & Landscaping		$ 4,500,000			
5. Steam Room Power Plant Incl. Piles		$ 26,000,000			
b. 1. Abnormal Foundations Piles (Res. & Gar.)		$ 7,500,000			
2. Other abnormal features Fill		$ 6,100,000			
c. Completion Costs City Site Work		$ 2,000,000			
d. Test Borings		$ 300,000			
e. Premium on Bonds		$ 700,000	$256,507,750		
f. Contractor's Home Office Overhead	-.78%	$ 2,000,000			
g. Contractor's Fee	- 01	$ 0	$ 2,000,000	$258,207,750	$ 3,247
2. PROFESSIONAL SERVICES					
a. Architect's Fees		$ 2,350,000			
b. Legal Fees		$ 150,000			
c. Preliminary Surveys and Title Search		$ 400,000			
d. Professional Engineer's & Laboratory Fees Incl. Fill Placement & Compaction Insp. Eng.		$ 750,000	$ 3,650,000		$ 50
3. SELLING OR RENTING EXPENSES					
a. Selling Expenses		$ 450,000			
b. Renting Expenses		$ 0	$ 450,000		$ 6
4. CARRYING AND FINANCING CHARGES					
a. Interest @ % for months		$ 6,250,000			
b. Taxes @ % for months on A.V. of		$ 2,500,000			
c. H.C. Administrative Expenses		$ 200,000			
d. Supervising Governmental Agency Fee	1.0%	$ 2,500,000			
e. Financing Expenses	0.2%	$ 500,000			
f. Title and Recordation Expense		$ 340,000	$ 12,300,000	$	169
g. Estimated net effect of Operations Non-Construction Items - $		$(10,000,000)			(137)
h. Contractor's Profit on Non-Construction Items - $		$ 0	$(10,000,000)	$ 6,400,000	$ 0
5. TOTAL			170,250	$264,000,550	$3,435
6. COST OF LAND ACQUISITION			$ 15,561,382		$ 220
a. Carrying Charges & Expenses			$ 581,858	$ 16,113,440	$ 220
7. ESTIMATED TOTAL DEVELOPMENT COST			(200,000)	$281,022,000	$3,655
8. CONTINGENCY - 0.7 % of Item #7			$ 2,000,000		$ 0
9. WORKING CAPITAL -0.24 % of Item #7			$ 673,550	2,673,550	$ 37
10. ESTIMATED TOTAL CAPITAL REQUIREMENTS				$283,695,550	$3,693
11. MORTGAGE LOAN - 88.6% of Item #10				$250,000,000	$3,443
12. EQUITY REQUIREMENTS				$ 32,799,550	$ 450
a. 1. No. of Shares of Common Capital Stock					
2. Par Value - $			$ 0		
b. Income Debentures, (Interest %)			$ 0		
c. Total Equity Capital				$ 0	

No. of D.U.'s 15,500 — No. of Rental Rooms 72,879

Cost Per D.U. $18,130 — Cost Per Rental Room 3,856

HUD-(FH-2.24 (1/64)

Surplus From Pre-Occupancy Operations

(SCHEDULE A)

BEST COPY AVAILABLE

EXHIBIT "4" - CONSTRUCTION CONTRACT, DATED JUNE 18, 1965 - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

(SCHEDULE A)

EXHIBIT "5" - MODIFICATION NO. I OF CONSTRUCTION CONTRACT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

MODIFICATION NUMBER I

OF

CONSTRUCTION CONTRACT

THIS CONTRACT made as of the 14th day of April, 1967 by and between RIVERBAY CORPORATION (hereinafter referred to as the "Owner"), a domestic corporation organized and existing under and by virtue of the Limited-Profit Housing Companies Law of the State of New York, constituting a mutual company thereunder, having its principal office at 465 Grand Street, New York, New York, and COMMUNITY SERVICES, INC. (hereinafter referred to as the "Contractor"), a domestic corporation authorized to do business in the State of New York, having an office at 456 Grand Street, New York, New York,

W I T N E S S E T H :

WHEREAS, the Owner and the Contractor entered into a Construction Contract dated as of June 18, 1965, relating to work to be performed by the Contractor in connection with the construction of the Co-op City Project, in the Borough of The Bronx, City of New York (which Construction Contract is hereinafter referred to as the "Construction Contract"); and

WHEREAS, there has been an increase in the cost of the construction of said Project, and a resulting increase in the Building Loan, as reflected in Modification Number One of Building Loan Agreement of even date herewith relating to said

Project; and

WHEREAS, the parties hereto have agreed to amend the Construction Contract to reflect such changes.

NOW, THEREFORE, it is agreed as follows:

1. Subparagraphs (d) and (e) of ARTICLE 1 of the Construction Contract are hereby deleted, and the following subparagraphs (d) and (e) are hereby substituted therefor:

"(d) Schedule 'A' dated March 13, 1967 made by the Owner and approved by the Division, a copy of which Schedule is attached hereto and made a part hereof, hereinafter referred to as 'Schedule 'A'.

"(e) Building Loan Agreement dated July 15, 1965 entered into by and between the Owner and the New York State Housing Finance Agency (hereinafter referred to as the 'Lender'), as amended by Modification Number One of Building Loan Agreement dated April 17, 1967 between the Lender and the Owner."

2. The first paragraph of ARTICLE 3 of the Construction Contract is hereby deleted and the following paragraph is hereby substituted therefor:

"The Owner shall pay the Contractor for the performance of the Work embraced by this Contract, subject to additions and deductions provided herein, the sum of Two Hundred Sixty-Seven Million Eight Hundred Thirty Thousand Seven Hundred Fifty ($267,830,750) Dollars (hereinafter referred to as the "Contract Price"), subject to the method of payment hereinafter provided."

3. The first paragraph of ARTICLE 4 of the Construction Contract is hereby deleted and the following paragraph is hereby substituted therefor:

"Applications for payments, (hereinafter sometimes referred to as "Requisitions"), under this Contract are to be made by the Contractor to the Owner, in ten copies, in the manner hereinafter provided. The sum to which the Contractor shall be entitled upon any such payment shall be the total of the purchase price of un-installed materials stored on the mortgaged property or offsite, in a manner acceptable to the Division, plus the cost of the portions of the Work acceptably completed plus a pro rata payment on account of non-auditable allowances included in Schedule 'A' and referred to in Articles 19 and 20 hereof, less 10% holdback on Item 2 (Construction Costs) of Schedule 'A', and less prior advances; except that with respect to that portion of the Work applicable to filling, excavation, piles, foundations and superstructure, the holdback shall be 5%, and less prior advances. Notwithstanding anything to the contrary in this paragraph, with respect to the following portions of the Work, holdback deductions shall not be applicable:

a. With respect to the residential buildings (Item 2.c. of Schedule 'A')

(1) Water, electricity and other public utility costs (excluding, however, the cost applicable to the Contractor's overhead provided under Article 19 hereof) during construction;

(2) Temporary heat during construction;

(3) Insurance during construction;

(4) Direct labor and watchmen;

(5) Air conditioning units, aluminum windows, refrigerators, ranges, hardware, venetian blinds, medicine cabinets and incinerators, provided, however, that notwithstanding Article 15 hereof, the Contractor's selection of the applicable materialmen shall first be subject to the approval of the Division.

b. With respect to the power plant (Item 2.f. of Schedule 'A'):

(1) Boilers, steam turbine generators;

(2) Diesel engines and condensers;

(3) Steam absorption units;

(4) Cooling towers;

(5) Switch gear;

(6) Power house substation;

(7) Apartment buildings substations;

(8) Motor control centers;

(9) Circulating and boiler feed pumps;

(10) Overhead cranes.

c. With respect to the following portions of the work applicable to the entire project:

(1) The mobilization fee of $500,000 for the land fill contract (Item 2.a. of Schedule 'A');

(2) The work pursuant to the agreement with The City of New York (Item 2.h. of Schedule 'A');

(3) Payment and Performance bonds for sub-contractors (Item 2.i. of Schedule 'A')."

4. ARTICLE 5 of the Construction Contract is hereby deleted and the following ARTICLE 5 is hereby substituted therefor:

"ARTICLE 5 - Building Loan

The Contractor understands that the Work herein provided to be done is to be financed by a building loan secured by mortgages, the terms of which are set forth in the Building Loan Agreement dated July 15, 1965 between the Lender and the Owner, as amended by Modification Number One of Building Loan Agreement dated April 14, 1967 between the Lender and the Owner (plus such sums as may be received by the Owner on the sale of its stock to cooperator tenants)."

5. Schedule "A" dated as of March 13, 1967, annexed hereto, shall be and the same hereby is substituted for the Schedule "A" heretofore annexed to the contract.

6. Except as hereby amended, the Construction Contract remains in full force and effect and, in the event of any incon-

sistency between the Construction Contract and this Modification Number I of Construction Contract, the provisions of the latter shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

RIVERBAY CORPORATION

By _____
President

ATTEST:

_____
Assistant Secretary

COMMUNITY SERVICES, INC.

By _____
Vice President

ATTEST:

_____
Secretary

APPROVED THIS 21st DAY OF April, 1967

JAMES Wm. GAYNOR

Commissioner of Housing and Community Renewal of the State of New York.

By _____
Deputy Commissioner of Housing and Community Renewal of the State of New York

EXHIBIT "5" - MODIFICATION NO. I OF CONSTRUCTION CONTRACT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

On the 14th day of APRIL, 1967, before me personally came HAROLD OSTROFF, to me known, who being by me duly sworn, did depose and say that he resides at No. 3915 Orloff Avenue, Bronx 63, New York; that he is the President of RIVERBAY CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Notary Public

ROY CARROLL
Notary Public, State of New York
No. 24-1557440
Qualified in New York County
Commission Expires March 30, 1969

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

On the 14th day of APRIL, 1967, before me personally came PAUL KRAMER, to me known, who being by me duly sworn, did depose and say that he resides at No. 246 East 238th Street, Bronx, New York; that he is the Vice-President of COMMUNITY SERVICES, INC., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Notary Public

ROY CARROLL
Notary Public, State of New York
No. 24-1557440
Qualified in New York County
Commission Expires March 30, 1969

EXHIBIT "6" - MODIFICATION NO. II OF CONSTRUCTION CONTRACT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

MODIFICATION NUMBER II

OF

CONSTRUCTION CONTRACT

THIS CONTRACT made as of the 22nd day of January, 1968 by and between RIVERBAY CORPORATION (hereinafter referred to as the "Owner"), a domestic corporation organized and existing under and by virtue of the Limited-Profit Housing Companies Law of the State of New York, constituting a mutual company thereunder, having its principal office at 465 Grand Street, New York, New York, and COMMUNITY SERVICES, INC. (hereinafter referred to as the "Contractor"), a domestic corporation authorized to do business in the State of New York, having an office at 465 Grand Street, New York, New York,

W I T N E S S E T H :

WHEREAS, the Owner and the Contractor entered into a Construction Contract dated as of June 15, 1965 as amended by Modification Number One dated as of April 14, 1967 relating to work to be performed by the Contractor in connection with the construction of the Co-op City Project, in the Borough of The Bronx, City of New York (which Construction Contract is hereinafter referred to as the "Construction Contract"); and

WHEREAS, the Contractor, by letter dated as of January 22, 1968, has requested an increase in the allowance for Contractor's Overhead; and

WHEREAS, the parties hereto have agreed to amend the Construction Contract to reflect such change.

NOW, THEREFORE, it is agreed as follows:

1. Subparagraph (d) of ARTICLE 1 of the Construction Contract is hereby deleted, and the following subparagraph (d) is hereby substituted therefor:

> "(d) Schedule 'A' dated January 22, 1968 made by the Owner and approved by the Division, a copy of which Schedule is attached hereto and made a part hereof, hereinafter referred to as 'Schedule 'A'."

2. The first paragraph of ARTICLE 3 of the Construction Contract is hereby deleted and the following paragraph is hereby substituted therefor:

> "The Owner shall pay the Contractor for the performance of the Work embraced by this Contract, subject to additions and deductions provided herein, the sum of Two Hundred Sixty-Eight Million Eighty Thousand Seven Hundred Fifty ($268,080,750.) Dollars (hereinafter referred to as the "Contract Price"), subject to the method of payment hereinafter provided."

3. Schedule "A" dated as of January 22, 1968, annexed hereto, shall be and the same hereby is substituted for the Schedule "A" heretofore annexed to the contract.

4. Article 19 of the Construction Contract is hereby deleted and the following Article 19 is hereby substituted therefor:

"ARTICLE 19 - Non-Auditable Allowances

> The sum of $2,250,000, included in the above specified Contract Price, shall compensate the Contractor for the following items: Contractor's home office overhead in connection with the construction items of the Project; miscellaneous traveling and expediting costs; bookkeeping expenses; the Contractor's legal and accounting expenses."

5. The first paragraph of Article 20 of the Construction Contract is hereby deleted and the following paragraph is hereby substituted therefor:

"ARTICLE 20 - Audits and Determination of Savings Under Contract

> Within twenty (20) days after completion of the Project, but prior to the final payment for all the Work required hereunder, the Contractor shall deliver to the Owner and to the Division an audit prepared by the Contractor's Certified Public Accountant,

> certifying the total costs, charges and expenses heretofore and hereafter paid and/or incurred by the Contractor and/or the Owner in the performance of this Contract within the scope of Article 1, but exclusive of all sums paid and/or incurred by the Contractor for the items set forth in Article 19 hereof with respect to which no audit shall be made or delivered. To the total costs, charges and expenses incurred by the Contractor and/or the Owner in connection with this Contract, including change orders but exclusive of all sums paid and/or incurred by the Contractor for the items set forth in Article 19 hereof there shall be added the sum of $2,250,000., to cover the costs and expenses set forth in Article 19 hereof, whether such costs and expenses be more or less than the said sum $2,250,000. The total of the foregoing sums are hereafter in this article referred to as "total cost of the Work." If the total of the original Contract Price provided in this Contract, and the debit and credit change orders as agreed to by the parties hereto and approved by the Commissioner shall be greater than the "total cost of Work," the amount by which it exceeds the "total cost of the Work" shall be considered a saving. The Owner shall be entitled to such saving provided, however, that any surety shall not be liable for the return of such saving."

6. Except as hereby amended, the Construction Contract remains in full force and effect and, in the event of any inconsistency between the Construction Contract and this Modification Number II of Construction Contract, the provisions of the latter shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

RIVERBAY CORPORATION

By _____
President

ATTEST:

_____
Vice President

COMMUNITY SERVICES, INC.

By _____
Vice President

ATTEST:

_____
Vice President

APPROVED THIS 8th DAY OF February, 1968

_____
Commissioner of Housing and Community Renewal
of the State of New York.

BEST COPY AVAILABLE

EXHIBIT "6" - MODIFICATION NO. II OF CONSTRUCTION CONTRACT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

On the 22nd day of January, 1968, before me personally came HAROLD OSTROFF, to me known, who being by me duly sworn, did depose and say that he resides at No. 3915 Orloff Avenue, Bronx 63, New York; that he is the President of RIVERBAY CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Notary Public

HARVEY C. SIGELBAUM
Notary Public, State of New York
No. 31 [illegible]
Qualified In New York County
Commission Expires March 30, 1969

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

On the 22nd day of January, 1968, before me personally came PAUL KRAMER, to me known, who being by me duly sworn, did depose and say that he resides at No. 246 East 238th Street, Bronx 70, New York----------; that he is the Vice-President of COMMUNITY SERVICES, INC., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Notary Public

HARVEY C. SIGELBAUM
Notary Public, State of New York
No. 31-4028850
Qualified In New York County
Commission Expires March 30, 1969

EXHIBIT "7" - MODIFICATION NO. III OF CONSTRUCTION CONTRACT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

MODIFICATION NUMBER III

OF

CONSTRUCTION CONTRACT

HCLP #51
5xB

THIS CONTRACT made as of the 29th day of March, 1968 by and between RIVERBAY CORPORATION (hereinafter referred to as the "Owner"), a domestic corporation organized and existing under and by virtue of the Limited-Profit Housing Companies Law of the State of New York, constituting a mutual company thereunder, having its principal office at 465 Grand Street, New York, New York, and COMMUNITY SERVICES, INC. (hereinafter referred to as the "Contractor"), a domestic corporation authorized to do business in the State of New York, having an office at 465 Grand Street, New York, New York.

W I T N E S S E T H:

WHEREAS, the Owner and the Contractor entered into a Construction Contract dated as of June 18, 1965 as amended by Modification Number One dated as of April 14, 1967 and Modification Number Two dated as of January 22, 1968 relating to work to be performed by the Contractor in connection with the construction of the Co-op City Project, in the Borough of The Bronx, City of New York (which Construction Contract is hereinafter referred to as the "Construction Contract"); and

WHEREAS, there has been an increase in the cost of construction of said Project, as reflected in Item 2.d. of Schedule A attached hereto; and

WHEREAS, the parties hereto have agreed to amend the Construction Contract to reflect such change.

NOW, THEREFORE, it is agreed as follows:

1. Subparagraph (d) of ARTICLE 1 of the Construction Contract is hereby deleted, and the following subparagraph (d) is hereby substituted therefor:

"(d) Schedule 'A' dated March 29, 1968 made by the Owner and approved by the Division, a copy of which Schedule is attached hereto and made a part hereof, hereinafter referred to as 'Schedule 'A'."

2. The first paragraph of ARTICLE 3 of the Construction Contract is hereby deleted and the following paragraph is hereby substituted therefor:

"The Owner shall pay the Contractor for the performance of the Work embraced by this Contract, subject to additions and deductions provided herein, the sum of Two Hundred Sixty-Nine Million Nine Hundred Eighty Thousand Seven Hundred Fifty ($269,980,750.) Dollars (hereinafter referred to as the "Contract Price"), subject to the method of payment hereinafter provided."

3. Schedule "A" dated as of March 29, 1968, annexed hereto, shall be and the same hereby is substituted for the Schedule "A" heretofore annexed to the contract.

4. Except as hereby amended, the Construction Contract remains in full force and effect and, in the event of any inconsistency between the Construction Contract and this Modification Number Three of Construction Contract, the provisions of the latter shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

RIVERBAY CORPORATION

By _____
President

ATTEST:

_____
Vice President

COMMUNITY SERVICES, INC.

By _____
Vice President

ATTEST:

_____
Vice President

APPROVED THIS 1st DAY OF April 1968

_____
Commissioner of Housing and Community Renewal
of the State of New York.

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

On the 29th day of March, 1968, before me personally came HAROLD OSTROFF, to me known, who being by me duly sworn, did depose and say that he resides at No. 3915 Orloff Avenue, Bronx 63, New York; that he is the President of RIVERBAY CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

_____
Notary Public

JANE T. FELDMAN
Notary Public, State of New York
No. 31-1126000
Qualified in New York County
Commission Expires March 30, 1969

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

On the 29th day of March, 1968, before me personally came PAUL KRAMER, to me known, who being by me duly sworn, did depose and say that he resides at 246 East 238th Street, Bronx 70, New York; that he is the Vice-President of COMMUNITY SERVICES, INC., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

_____
Notary Public

EXHIBIT "7" - MODIFICATION NO. III OF CONSTRUCTION CONTRACT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

(SCHEDULE A)

SCHEDULE A

Date: 1-22-68

Name of Project BINYUMAY CORPORATION (X) Cooperative ( ) Rental ( ) Non Profit

Address of Project BRONX, NEW YORK

MCLP # 64-571

ESTIMATED DEVELOPMENT COSTS AND CAPITAL REQUIREMENTS

	(1)	(2)	(3)	(4) Cost per Rental Room
1. COST OF LAND ACQUISITION CITY OF NEW YORK		170,250		
a. No. of sq. ft. 12,967,785 @ 1.20 per sq. ft.		$ 15,561,342		
b. Carrying Charges & Expenses		$ 487,390		
c. Relocation and Other National Development Corp.		$ (200,000)	$ 16,018,982	$ 220
2. CONSTRUCTION COSTS Site Fill				
a. Demolition & Site Clearance Costs	$ 6,850,000			
b. Abnormal Foundations & Conditions-Piles	$ 7,200,000			
c. Residential Structures	$199,735,000			
d. Commercial Structures (If separate) and Community Bldgs.	$ 7,950,000			
e. Garages Structures (If separate)	$ 12,800,000			
f. Other Structures Power Plant	$ 22,216,000			
g. Site Work	$ 5,000,000			
h. Off-site work City	$ 2,829,750			
i. Premium on Bonds Test Boring	$ 850,000	$205,830,750		
j. Contingency allowance	400,000			
k. Contractor's Overhead & Profit 0.85%		$ 2,250,000	$208,080,750	$ 3,077
3. DEVELOPMENT FEE ____% of Items 2a.-i.			$	$
4. PROFESSIONAL SERVICES				
a. Architect's Fee		$ 2,550,000		
b. Engineer's Inspection Fees		$ 350,000		
c. Laboratory Fees		$ 200,000		
d. Soil Investigation		$ 200,000		
e. Preliminary Surveys		$ 400,000		
f. Legal Fees		$ 150,000	$ 3,850,000	$ 53
5. SELLING OR RENTING EXPENSES				
a. Selling or Renting Fees		$ 500,000		
b. Advertising & Promotion		$		
c. Other		$	$ 500,000	$ 7
6. CARRYING & FINANCING CHARGES				
a. Interest @ ____% for ____Months		$ 6,500,000		
b. R.E. Tax @ ____$ for ____Months on A.V. ____		$ 2,600,000		
c. Supervising Governmental Agency Fee 0.6% of 11+250M		$ 1,816,000		
d. Financing Expenses- H.F.A. Fee 0.5% of 11		$ 783,000		
e. Title and Recording Expenses		$ 353,000		
f. H.C. Administrative Expenses		250,000		
g. Surplus from Pre-Occupancy Operations	$	$(10,000,000)	$ 2,302,000	$ 32
7. ESTIMATED DEVELOPMENT COST			$290,751,732	$ 3,989
8. CONTINGENCY - ____% of Item 7.			$ 2,000,000	
9. WORKING CAPITAL - ____% of Item 7.			$ 1,051,068	$ 42
10. ESTIMATED PROJECT COST			$293,803,200	$ 4,031
11. MAXIMUM MORTGAGE LOAN - 88.83% of Item 10.			$261,000,000	3,581
12. EQUITY REQUIREMENTS OR CAPITAL CONTRIBUTION			$ 32,803,200	$ 450
a. 1. No. of Class A Shares ____ x (Par Value) $ ____		$	$	
2. No. of Class B Shares 312,128 x (Par Value) $25.00		$32,803,200		
b. Income Debentures (Interest at ____%)		$	$32,803,200	
c. Capital Contribution			$	

No. of H.U. 15,372 No. of Rental Rooms 72,896

Cost per H.U. $ 18,914. (Item 7, Col. 3 ÷ No. of H.U.) Cost per Rental Room $ 3,989. (Item 7, Col. 4)

HFA-LPM-2.2A (8-66)

2 of 2

BEST COPY AVAILABLE

ANNEXED TO AFFIDAVIT OF JAY F. GORDON (SCHEDULE A)

MODIFICATION NUMBER IV

OF

CONSTRUCTION CONTRACT

THIS CONTRACT made as of the 9th day of October, 1969 by and between RIVERBAY CORPORATION (hereinafter referred to as the "Owner"), a domestic corporation organized and existing under and by virtue of the Limited-Profit Housing Companies Law of the State of New York, constituting a mutual company thereunder, having its principal office at 465 Grand Street, New York, New York, and COMMUNITY SERVICES, INC. (hereinafter referred to as the "Contractor"), a domestic corporation authorized to do business in the State of New York, having an office at 465 Grand Street, New York, New York.

W I T N E S S E T H :

WHEREAS, the Owner and the Contractor entered into a Construction Contract dated as of June 18, 1965, relating to work to be performed by the Contractor in connection with the construction of the Co-op City Project, in the Borough of The Bronx, City of New York, as amended by Modification Number I of Construction Contract dated April 14, 1967 between the Owner and the Contractor, Modification Number II of Construction Contract dated January 22, 1968 between the Owner and the Contractor and Modification Number III of Construction Contract dated March 29, 1968 between the Owner and the Contractor, by reason of increases in the cost of the con-

struction of said Project and other changes (which Construction Contract, as so amended, is hereinafter referred to as the "Construction Contract"); and

WHEREAS, there has been a further increase in the cost of the construction of said Project, and a resulting further increase in the Building Loan, as reflected in Modification Number Three of Building Loan Agreement of even date herewith relating to said Project; and

WHEREAS, the parties hereto have agreed to amend further the Construction Contract to reflect such changes.

NOW, THEREFORE, it is agreed as follows:

1. Subparagraphs (d) and (e) of ARTICLE 1 of the Construction Contract are hereby deleted, and the following subparagraphs (d) and (e) are hereby substituted therefor:

"(d) Schedule 'A' dated September 15, 1969 made by the Owner and approved by the Division, a copy of which Schedule is attached hereto and made a part hereof, hereinafter referred to as 'Schedule 'A'.

"(e) Building Loan Agreement dated July 15, 1965 entered into by and between the Owner and the New York State Housing Finance Agency (hereinafter referred to as the 'Lender'), as amended by Modification Number One of Building Loan Agreement dated April 14, 1967 between the Lender and the Owner, Modification Number Two of Building Loan Agreement dated February 3, 1969 between the Lender and the Owner and Modification Number Three of Building Loan Agreement dated October 9, 1969 between the Lender and the Owner."

2. The first paragraph of ARTICLE 3 of the Construction Contract is hereby deleted and the following paragraph is hereby substituted therefor:

"The Owner shall pay the Contractor for the performance of the Work embraced by this Contract, subject to additions and deductions provided herein, the sum of Three Hundred Ten Million Five Hundred Thousand ($310,500,000) Dollars (hereinafter referred to as the "Contract Price"), subject to the method of payment hereinafter provided."

3. ARTICLE 5 of the Construction Contract is hereby deleted and the following ARTICLE 5 is hereby substituted therefor:

"ARTICLE 5 - Building Loan

The Contractor understands that the Work herein provided to be done is to be financed by a building loan secured by mortgages, the terms of which are set forth in the Building Loan Agreement dated July 15, 1965 between the Lender and the Owner, as amended by Modification Number One of Building Loan Agreement dated April 14, 1967 between the Lender and the Owner, Modification Number Two of Building Loan Agreement dated February 3, 1969 between the Lender and the Owner and Modification Number Three of Building Loan Agreement dated October 7, 1969 between the Lender and the Owner (plus such sums as may be received by the Owner on the sale of its stock to cooperator tenants)."

4. ARTICLE 19 of the Construction Contract is hereby deleted and the following ARTICLE 19 is hereby substituted therefor:

"ARTICLE 19 - Non-Auditable Allowances

The sum of $2,750,000, included in the above specified Contract Price, shall compensate the Contractor for the following items: Contractor's home office overhead in connection with the construction items of the Project; miscellaneous traveling and expediting costs; bookkeeping expenses; the Contractor's legal and accounting expenses."

5. The first paragraph of ARTICLE 20 of the Construction Contract is hereby deleted and the following paragraph is hereby substituted therefor:

"ARTICLE 20 - Audits and Determination of Savings Under Contract

Within twenty (20) days after completion of the Project, but prior to the final payment for all the Work required hereunder, the Contractor shall deliver to the Owner and to the Division an audit prepared by the Contractor's Certified Public Accountant, certifying the total costs, charges and expenses heretofore and hereafter paid and/or incurred by the Contractor and/or the Owner in the performance of this Contract within the scope of ARTICLE 1, but exclusive of all sums paid and/or incurred by the Contractor for the items set forth in ARTICLE 19 hereof with respect to which no audit shall be made or delivered. To the total costs, charges and expenses incurred by the Contractor and/or the Owner in connection with this Contract, including change orders but exclusive of all sums paid and/or incurred by the Contractor for the items set forth in ARTICLE 19 hereof there shall be added the sum of $2,750,000., to cover the costs and expenses set forth in ARTICLE 19 hereof, whether such costs and expenses be more or less than the said sum of $2,750,000. The total of the foregoing sums are hereafter in this article referred to as "total cost of the Work." If the total of the original Contract Price provided in this Contract, and the debit and credit change orders as agreed to by the parties hereto and approved by the Commissioner shall be greater than the "total cost of Work," the amount by which it exceeds the "total cost of the Work' shall be considered a saving. The Owner shall be entitled to such saving provided, however, that any surety shall not be liable for the return of such saving."

6. Schedule "A" dated as of September 15, 1969, annexed hereto, shall be and the same hereby is substituted for the Schedule "A" heretofore annexed to the contract.

7. All Supplemental Agreements previously executed pursuant to ARTICLE 2 of the Construction Contract are hereby deemed to be amended to bring the estimated costs set forth therein into conformity with the amounts listed in the Trade Payment Breakdown annexed hereto as Exhibit A.

8. All Work contemplated by changes to drawings and specifications approved by the Commissioner of Housing and

Community Renewal (hereinafter called the "Commissioner") on or before September 15, 1969 is included in the Contract Price as set forth in ARTICLE 3 of the Construction Contract, as amended by paragraph 2 of this Modification Number IV of Construction Contract. All Work contemplated by letter approvals issued by the Commissioner on or before September 15, 1969, whether or not incorporated in the revised plans and specifications, is included in said Contract Price.

9. Except as hereby amended, the Construction Contract remains in full force and effect and, in the event of any inconsistency between the Construction Contract and this Modification Number IV of Construction Contract, the provisions of the latter shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

RIVERBAY CORPORATION

By _____
President

COMMUNITY SERVICES, INC.

By _____
Vice President

APPROVED THIS 9th DAY OF OCTOBER, 1969

_____
Deputy Commissioner of Housing and Community Renewal of the State of New York.

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On the 9th day of October , 1969, before me personally came HAROLD OSTROFF, to me known, who being by me duly sworn, did depose and say that he resides at No. 3915 Orloff Avenue, Bronx 63, New York; that he is the President of RIVERBAY CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

_____
Notary Public

EZRA N. GOODMAN
Notary Public, State of New York
No. 24-0900960
Qualified in Kings County
Commission Expires March 30, 1970

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On the 9th day of October , 1969, before me personally came JULIUS GOLDBERG, to me known, who being by me duly sworn, did depose and say that he resides at No. 102 Manchester Street, Westbury, New York ; that he is the Vice-President of COMMUNITY SERVICES, INC., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

_____
Notary Public

EZRA N. GOODMAN
Notary Public, State of New York
No. 24-0900960
Qualified in Kings County
Commission Expires March 30, 1970

SCHEDULE A 9/15/69

Date: 9-15- J

Name of Project RIVERBAY CORPORATION (HOUSING) N (Cooperative ( ) Rental ( ) Non Profit

Address of Project BRONX, NEW YORK

RCHP # 60-572

ESTIMATED DEVELOPMENT COSTS AND CAPITAL REQUIREMENTS

	(1)	(2)	(3)	(4) Cost per Rental Room
1. COST OF LAND ACQUISITION - City of New York		170,250		
a. No. of sq. ft. 12,967,785 1.20 per sq. ft.		$ 15,561,342		
b. Carrying Charges & Expenses		$ . . 487,390		
c. Relocation and other National Development Corp		$ (200,000)	$ 16,018,992	$ 220
2. CONSTRUCTION COSTS				
a. Conditioning-Site Work Costs Site Fill	$ 7,450,000			
b. Abnormal Foundations & Conditions (Piles)	$ 9,055,000			
c. Residential Structures and Community	$ 229,005,250			
d. Commercial Structures (If separate) Space	$ 10,500,000			
e. Garages Structures (If separate)	$ 13,650,000			
f. Other Structures Power Plant	$ 20,350,000			
g. Site work	$ 5,500,000			
h. Off-Site work	$ 2,829,750			
i. Trades on Parks	$ 950,000	$307,750,000		
j. Test Borings Contractors Overhead (Not included) 3 of Items 2a.-i. .89%		$ 2,750,000	$310,500,000	$ 4,250
3. DEVELOPER'S FEE 3 of Items 2a.-i		. . . . .	$	$ . . . .
4. PROFESSIONAL SERVICES				
a. Architect's Fee		$. 2,975,000		
b. Engineer's Inspection Fees		$ . . . 975,000		
c. Laboratory Fees		$ . . . 200,000		
d. Soil Investigation		$ . . . 100,000		
e. Preliminary Surveys		$. 1,450,000		
f. Legal Fees		$ 200,000	$. 5,900,000	$ . . . 81
5. SELLING OR RENTING EXPENSES				
a. Selling or Renting Fees		$ . . . 600,000		
b. Advertising & Promotion		$		
c. Other		$	$ . . 600,000	$ 8
6. CARRYING & FINANCING CHARGES				
a. Interest @ ____% for ____ Months		$ 18,500,000		
b. R.E. Tax @ ____% for ____ Months on A.V. ____		$. 7,900,000		
c. Supervising Governmental Agency Fee		$. 2,970,000		
d. Financing Expenses		$ . . . 990,000		
e. Title and Recording Expenses		$ . . 453,000		
f. H.C. Administrative Expenses		300,000		
g. Subsidy from Pre-occupancy		(4,600,000)		
h. Accounting Expenses	$	$	$ 26,513,000	$ . . 364
7. ESTIMATED DEVELOPMENT COST			$359,531,992	$ 4,932
8. CONTINGENCY - ____% of Item 7.			$. 1,000,000)	43
9. WORKING CAPITAL - ____% of Item 7.			$ 2,167,718)	
10. ESTIMATED PROJECT COST			$362,699,700	$ 4,975
11. PERMANENT MORTGAGE LOAN - 90.98% of Item 10			$330,000,000	4,527
12. EQUITY REQUIREMENTS OR CAPITAL CONTRIBUTION			$. 32,699,700	$ . . 448
a. 1. No. of Class A Shares ____ x (Par Value) $____		$		
2. No. of Class B Shares) 307,988 x (Par Value) $25.00		$. 32,699,700		
b. Income Debentures (Interest at ____%)		$	$	
c. Capital Contribution			$	

No. of H.U. 15,372

Cost per H.U. $ 23,380.
(Item 7, Col. 3 No. of H.U.)

No. of Rental Rooms 72,890

Cost per Rental Room $ 4,930.
(Item 7, Col. 4)

HFA-LOM-2.24 (4-69)

RIVERBAY CORPORATION (HOUSING)
Summary of Trade Payment Breakdown
as revised 9/15/69

Stage	Description	Trades	Builder (Cost)	Total
1	Land Fill	7,450,000	67,500	7,517,500
2	Power Plant	15,350,000	138,500	15,488,500
3	Distribution System	9,000,000	81,300	9,081,300
4	Bldgs. 1-2-3 (Chevron)	17,670,750	148,400	17,819,150
5	Bldgs. 4-5 (Tricore)	15,068,540	135,700	15,204,240
6	Bldgs. 6-7-8 (Tower)	18,184,200	163,800	18,348,000
7	T. H. 301-304	1,345,150	11,600	1,356,750
8	T. H. 305-308	1,674,700	15,000	1,689,700
9	Garage 1-2	3,713,000	33,400	3,746,400
10	Comml. & Community Center S-1	5,900,000	50,700	5,950,700
11	Site Work - Riverbay	1,400,000	12,500	1,412,500
12	Site Work - NYC	665,000	4,870	669,870
Sub-Total	Section I	97,381,340	871,270	98,252,610
13	Bldg. 9 (Chevron)	5,850,250	52,600	5,902,850
14	Bldgs. 10-11 (Tricore)	15,068,540	135,700	15,203,740
15	Bldgs. 12-13-14 (Tower)	18,184,200	163,700	18,347,900
16	T. H. 309-314	1,885,350	16,900	1,902,250
17	Garage 3	1,856,500	16,700	1,873,200
18	Site Work - Riverbay	900,000	8,100	908,100
19	Site Work - NYC	485,000	3,900	488,900
Sub-Total	Section II	44,209,840	397,600	44,607,440
20	Bldgs. 15-16 (Chevron)	11,780,600	105,900	11,886,500
21	Bldgs. 17-18-19 (Tower)	18,184,200	163,700	18,347,900
22	T. H. 315-317	682,600	7,600	690,200
23	Garage 4	1,856,500	16,700	1,873,200
24	Comml.& Community Center S-2	5,900,000	54,700	5,954,700
25	Site Work - Riverbay	800,000	7,100	807,100
26	Site Work - NYC	372,000	2,900	374,900
Sub-Total	Section III	30,776,800	358,600	40,134,800
27	Bldgs. 20-21 (Telcoro)	15,068,540	135,700	15,203,740
28	Bldg. 22 (Chevron)	5,890,250	52,600	5,942,850
29	Bldgs. 23-24-25 (Tower)	18,184,200	163,200	18,347,400
30	T. H. 318-324	2,592,000	23,200	2,616,200
31	T. H. 325-329	1,795,500	16,100	1,811,600
32	Garages 5-6	3,713,000	33,400	3,746,400
33	Site Work - Riverbay	900,000	8,100	908,100
34	Site Work - NYC	504,000	3,610	507,610
Sub-Total	Section IV	48,648,490	435,610	49,084,300

EXHIBIT "A"

(EXHIBIT "A" - SUMMARY OF TRADE PAYMENT BREAKDOWN)

RIVERBAY CORPORATION (CO-OP CITY)
Summary of Trade Payment Breakdown
as revised 9/15/69

- page 2 -

Stage	Description	Trades	Builders Overhead	Total
35	Bldgs. 26-27-28-29 (Tricore)	30,137,080	270,400	30,407,480
36	Bldgs. 30-31-32 (Chevron)	17,670,750	158,400	17,829,150
37	Bldgs. 33-34-35 (Tower)	18,184,200	163,200	18,347,400
38	T. H. 330-333	1,594,800	14,300	1,609,100
39	Garages 7-8	3,713,000	33,400	3,746,400
40	Comml. & Community Center S-3	2,700,000	25,230	2,725,230
41	Site Work - Riverbay	1,500,000	13,400	1,513,400
42	Site Work - NYC	823,750	6,220	829,970
Sub-Total	Section V	76,323,580	684,550	77,008,130

RECAPITULATION

Section I	97,381,340	875,070	98,256,410
" II	44,269,790	396,560	44,666,350
" III	39,776,800	358,010	40,134,810
" IV	48,648,490	435,810	49,084,300
" V	76,323,580	684,550	77,008,130
Borings	400,000	- -	400,000
Premium on Bonds	950,000	- -	950,000
Total	307,750,000	2,750,000	310,500,000

EXHIBIT "A" (Continued)

EXHIBIT "9" - MODIFICATION NO. V OF CONSTRUCTION CONTRACT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

MODIFICATION NUMBER V

OF

CONSTRUCTION CONTRACT

THIS CONTRACT made as of the 7th day of July, 1971 by and between RIVERBAY CORPORATION (hereinafter referred to as the "Owner"), a domestic corporation organized and existing under and by virtue of the Limited-Profit Housing Companies Law of the State of New York, constituting a mutual company thereunder, having its principal office at 465 Grand Street, New York, New York and COMMUNITY SERVICES, INC. (hereinafter referred to as the "Contractor"), a domestic corporation authorized to do business in the State of New York, having an office at 465 Grand Street, New York, New York,

W I T N E S S E T H :

WHEREAS, the Owner and the Contractor entered into a Construction Contract dated as of June 18, 1965, relating to work to be performed by the Contractor in connection with the construction of the Co-op City Project, in the Borough of The Bronx, City of New York, as amended by Modification Number I of Construction Contract dated April 14, 1967 between the Owner and the Contractor, Modification Number II of Construction Contract dated January 22, 1968 between the Owner and the Contractor, Modification Number III of Construction Contract dated March 29, 1968 between the Owner and the Contractor and Modification Number IV of Construction Contract dated

October 9, 1969 between the Owner and the Contractor, by reason of increases in the cost of the construction of said Project and other changes (which Construction Contract, as so amended, is hereinafter referred to as the "Construction Contract"); and

WHEREAS, there has been a further increase in the cost of the construction of said Project, and a resulting further increase in the Building Loan, as reflected in Modification Number Four of Building Loan Agreement of even date herewith relating to said Project; and

WHEREAS, the parties hereto have agreed to amend further the Construction Contract to reflect such changes.

NOW, THEREFORE, it is agreed as follows:

1. Subparagraphs (d) and (e) of ARTICLE 1 of the Construction Contract are hereby deleted, and the following subparagraphs (d) and (e) are hereby substituted therefor:

> "(d) Schedule 'A' dated May 1, 1971 made by the Owner and approved by the Division, a copy of which Schedule is attached hereto and made a part hereof, hereinafter referred to as 'Schedule 'A''.
>
> (e) Building Loan Agreement dated July 15, 1965 entered into by and between the Owner and the New York State Housing Finance Agency (hereinafter referred to as the 'Lender'), as amended by Modification Number One of Building Loan Agreement dated April 14, 1967 between the Lender and the Owner, Modification Number Two of Building Loan Agreement dated February 3, 1969 between the Lender and the Owner, Modification Number Three of Building Loan Agreement dated October 9, 1969 between

> the Lender and the Owner and Modification Number Four of Building Loan Agreement dated July 7, 1971 between the Lender and the Owner."

2. The first paragraph of ARTICLE 3 of the Construction Contract is hereby deleted and the following paragraph is hereby substituted therefor:

> "The Owner shall pay the Contractor for the performance of the Work embraced by this Contract, subject to additions and deductions provided herein, the sum of Three Hundred Forty Million Five Hundred Thousand ($340,500,000) Dollars (hereinafter referred to as the "Contract Price"), subject to the method of payment hereinafter provided."

3. ARTICLE 5 of the Construction Contract is hereby deleted and the following ARTICLE 5 is hereby substituted therefor:

> "ARTICLE 5 - Building Loan
>
> The Contractor understands that the Work herein provided to be done is to be financed by a building loan secured by mortgages, the terms of which are set forth in the Building Loan Agreement dated July 15, 1965 between the Lender and the Owner, as amended by Modification Number One of Building Loan Agreement dated April 14, 1967 between the Lender and the Owner, Modification Number Two of Building Loan Agreement dated February 3, 1969 between the Lender and the Owner, Modification Number Three of Building Loan Agreement dated October 9, 1969 between the Lender and the Owner and Modification Number Four of Building Loan Agreement dated July 7, 1971 between the Lender and the Owner (plus such sums as may be received by the Owner on the sale of its stock to co-operator tenants)."

4. ARTICLE 19 of the Construction Contract is hereby deleted and the following ARTICLE 19 is hereby substituted therefor:

> "ARTICLE 19 - Non-Auditable Allowances
>
> The sum of $3,050,000, included in the above spe-

cified Contract Price, shall compensate the Contractor for the following items: Contractor's home office overhead in connection with the construction items of the Project; miscellaneous traveling and expediting costs; bookkeeping expenses; the Contractor's legal and accounting expenses."

5. The first paragraph of ARTICLE 20 of the Construction Contract is hereby deleted and the following paragraph is hereby substituted therefor:

"ARTICLE 20 - Audits and Determination of Savings Under Contract

Within twenty (20) days after the completion of the Project, but prior to the final payment for all the Work required hereunder, the Contractor shall deliver to the Owner and to the Division an audit prepared by the Contractor's Certified Public Accountant, certifying the total costs, charges and expenses heretofore and hereafter paid and/or incurred by the Contractor and/or the Owner in the performance of this Contract within the scope of ARTICLE 1, but exclusive of all sums paid and/or incurred by the Contractor for the items set forth in ARTICLE 19 hereof with respect to which no audit shall be made or delivered. To the total costs, charges and expenses incurred by the Contractor and/or the Owner in connection with this Contract, including change orders but exclusive of all sums paid and/or incurred by the Contractor for the items set forth in ARTICLE 19 hereof there shall be added the sum of $3,050,000, to cover the costs and expenses set forth in ARTICLE 19 hereof, whether such costs and expenses be more or less than the said sum of $3,050,000. The total of the foregoing sums are hereafter in this article referred to as the 'total cost of the Work.' If the total of the original Contract Price provided in this Contract, and the debit and credit change orders as agreed to by the parties hereto and approved by the Commissioner shall be greater than the 'total cost of the Work', the amount by which it exceeds the 'total cost of the Work' shall be considered a saving. The Owner shall be entitled to such saving provided, however, that any surety shall not be liable for the return of such saving."

6. Schedule "A" dated as of May 1, 1971, annexed

hereto, shall be and the same hereby is substituted for the Schedule "A" heretofore annexed to the contract.

7. All Supplemental Agreements previously executed pursuant to ARTICLE 2 of the Construction Contract are hereby deemed to be amended to bring the estimated costs set forth therein into conformity with the amounts listed in the Trade Payment Breakdown annexed hereto as Exhibit A.

8. All Work contemplated by changes to drawings and specifications approved by the Commissioner of Housing and Community Renewal (hereinafter called the "Commissioner") on or before May 1, 1971 is included in the Contract Price as set forth in ARTICLE 3 of the Construction Contract, as amended by paragraph 2 of this Modification Number V of Construction Contract. All Work contemplated by letter approvals issued by the Commissioner on or before May 1, 1971, whether or not incorporated in the revised plans and specifications, is included in said Contract Price.

9. Except as hereby amended, the Construction Contract remains in full force and effect and, in the event of any inconsistency between the Construction Contract and this Modification Number V of Construction Contract, the provisions of the latter shall govern.

IN WITNESS WHEREOF, the parties hereto have executed

this agreement as of the day and year first above written.

RIVERBAY CORPORATION

By _____
Vice President

COMMUNITY SERVICES, INC.

By _____
Vice President

APPROVED THIS 2nd DAY OF JULY, 1971

_____
Commissioner of Housing and Community
Renewal of the State of New York

EXHIBIT "9" - MODIFICATION NO. V OF CONSTRUCTION CONTRACT -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On the 7th day of July, 1971, before me personally came GEORGE SCHECHTER, to me known, who being by me duly sworn, did depose and say that he resides at No. 20B Defoe Place, Bronx, New York; that he is the Vice President of RIVERBAY CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Burt Allen Solomon

BURT ALLEN SOLOMON
Notary Public, State of New York
No. 31-9105500
Qualified in New York County
Commission Expires March 30, 1972

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On the 7th day of July, 1971, before me personally came JULIUS GOLDBERG, to me known, who being by me duly sworn, did depose and say that he resides at No. 102 Manchester Street, Westbury, New York; that he is the Vice President of COMMUNITY SERVICES, INC., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Burt Allen Solomon

BURT ALLEN SOLOMON
Notary Public, State of New York
No. 31-9107500
Qualified in New York County
Commission Expires March 30, 1972

Building Loan Agreement

AGREEMENT, dated the 15th day of July, 1965, between New York State Housing Finance Agency, a corporate governmental agency created under and pursuant to the provisions of the New York State Housing Finance Agency Act (hereinafter referred to as the "Lender") having its principal office at 393 Seventh Avenue, Borough of Manhattan, City, County and State of New York and .....RIVERBAY CORPORATION....., a corporation organized and existing under and by virtue of the Limited Profit Housing Companies Law of the State of New York, constituting a mutual company thereunder, having its principal office at.....465 Grand Street....., Borough of...Manhattan..., City and State of New York (hereinafter referred to as the "Borrower");

WHEREAS, the Borrower has applied to the Lender for a loan of money (hereinafter referred to as the "Mortgage Loan") to aid the Borrower in erecting and equipping certain buildings and improvements (hereinafter referred to as the "Project") upon the premises described in Schedule A, annexed hereto and made a part hereof, and the Lender is prepared to make the Mortgage Loan upon the conditions hereinafter set forth;

WHEREAS, to provide for the issuance of Non-Profit Housing Project Bonds (hereinafter referred to as "Bonds") in order to obtain from time to time monies with which to make mortgage loans, the Lender has adopted, on April 2, 1965, its Non-Profit Housing Project Bond Resolution (hereinafter referred to as the "Bond Resolution"), and proposes to adopt one or more resolutions authorizing the issuance of Non-Profit Housing Bond Anticipation Notes (hereinafter referred to as "Notes") for the same purpose;

WHEREAS, the monies borrowed by the Lender through the issuance of Bonds and Notes for the purpose of paying interest on the Bonds and Notes issued by the Lender to obtain funds with which to make this loan to the Borrower shall constitute a part of, and be included in the computation of this Mortgage Loan;

NOW, THEREFORE, the parties agree:

I. The Lender agrees to make, and the Borrower agrees to accept, a loan of ...Two Hundred Thirty-Six Million Six Hundred Fifty-Five Thousand Seven Hundred Ten ($236,655,710...) Dollars, to be advanced as herein provided, and to be evidenced by the Borrower's note executed simultaneously herewith, and payable with interest and amortization as therein provided and secured by a mortgage (hereinafter referred to as the "Mortgage") on the premises described in Schedule A.

FEES AND CHARGES

(1) That on the first day of the month following an advance to the Borrower by the Lender on this Mortgage Loan and on the first day of each month thereafter, as scheduled by the Lender, until the Lender has issued Bonds for the purpose of obtaining monies to make this Mortgage Loan or for the purpose of funding Notes issued to obtain such monies, the Borrower will pay to the Lender, at the office of the Lender, or at such other place as the Lender may designate, such fees and charges (hereinafter referred to as "Fees and Charges") as the Lender, in its sole discretion, shall determine in order to reimburse the Lender for the following costs and expenses of the Lender in connection with the making of this Mortgage Loan:

(a) the administrative expenses of the Lender;

(b) the costs and expenses of the Lender incurred in connection with the authorization, issuance, sale and delivery of its Notes issued with respect to the Project of the Borrower;

(c) re-imbursement by the Lender to the Division of Housing and Community Renewal of the State of New York (hereinafter referred to as the "Division") for the reasonable costs of services performed by the New York State Commissioner of Housing and Community Renewal, or his duly authorized representative (hereinafter collectively referred to as the "Commissioner") and the Division for the Lender pursuant to the New York State Housing Finance Agency Act; and

(2) That on the first day of the month after the Lender has issued Bonds for the purpose of obtaining monies to make this Mortgage Loan or for the purpose of funding Notes issued to obtain such monies and on the first day of each month thereafter as scheduled by the Lender, the Borrower will pay to the Lender, at the office of the Lender, or at such other place as the Lender may designate, such Fees and Charges as the Lender, in its sole discretion, shall determine to be sufficient, together with other monies available for such purposes under the provisions of the Bond Resolution,

(a) to provide the amounts required to pay the principal of and interest on the Borrower's Debt Service Reserve Fund Obligations, as determined by the Lender in accordance with the applicable provisions of the Bond Resolution;

(b) to pay, as the same become due, the Borrower's allocable proportion of the administrative expenses of the Lender;

(c) to pay, as the same become due, the costs and expenses of the Lender incurred in connection with the authorization, issuance, sale and delivery of its Bonds and Notes issued with respect to the Project of the Borrower;

(d) to pay, as the same become due, the Borrower's allocable proportion of the fees and expenses of the Trustee, Depository, and Paying Agents under the Bond Resolution;

(e) to provide for the re-imbursement by the Lender to the Division of the Borrower's allocable proportion of the reasonable costs of services performed by the Commissioner and the Division for the Lender pursuant to the New York State Housing Finance Agency Act; and

(f) to provide the amounts required to pay the Borrower's State Repayment Obligation, as determined by the Lender in accordance with the applicable provisions of the Bond Resolution.

For the purposes of subparagraphs (b), (d) and (e) of this subsection (2), above, the term "Borrower's allocable proportion" shall mean the proportionate amount of the total requirement determined by the ratio that Borrower's total Mortgage Loan bears to the total of all the mortgage loans made by the Lender from the proceeds of Bonds issued for the purpose of obtaining monies to make mortgage loans or for the purpose of funding Notes or refunding Bonds issued to obtain such monies.

II. The Borrower will construct on the premises the following described Project on or before ...August 1, 1970.....:

Thirty-nine fireproof apartment buildings, ten of which shall be 24 stories, fourteen of which shall be 27 stories and fifteen of which shall be 34 stories, containing an aggregate of 15,500 apartments, commercial buildings containing approximately 6,200,000 cubic feet, a community center, a power plant building and on-site parking facilities for 10,850 cars.

For the purposes of developing the entire Project, the construction of any part thereof shall be in accordance with such stages as shall be determined by the Borrower, subject to the written approval of the Commissioner and the Lender. The construction shall be performed in such stages and in accordance with the plans and specifications approved in writing in advance by the Commissioner with respect to each such stage.

III. Said loan shall be advanced at such times and in such amounts as the Lender shall determine, subject to the certification in writing from the Commissioner, that such advance is then payable and due under and in accordance with the terms and conditions of this agreement and a certain construction contract approved by the Commissioner, less such holdback on advances as provided in said construction contract. At any time after 50% of the construction has been completed for any stage of construction determined in accordance with Paragraph II hereof, if the Borrower and the Commissioner agree, advances may be made for the construction completed after such agreement for such stage of construction without making any holdback deduction and for the difference, if any, between the amount of holdback at the time of such agreement and the amount of holdback applicable when 50% of the construction for such stage of construction was completed. After the Commissioner has determined that any such stage of construction has been substantially completed, the remaining holdback for such stage of construction may be paid from time to time and in such amounts as the Commissioner shall approve. However, at no time will any advance or payment be made by the Lender to the Borrower which would result in a loan in excess of eighty-eight & 40/100 per cent (88.4%) of the then "Project Cost", as defined and determined in accordance with the provisions of the Limited-Profit Housing Companies Law at the time of each such advance or payment. As part of the consideration to the Lender hereunder, the Lender shall have the right, if the Lender believes it advisable so to do, to make any given advance of mortgage proceeds when the Borrower shall be entitled to same in accordance with the terms of this agreement, notwithstanding that the Borrower shall not have requested such advance or shall have refused to accept same, and all such advances shall be deemed to have made in pursuance of this agreement and not to be in contravention or in modification thereof.

IV. Prior to any advance hereunder and as a condition precedent to each advance, the Borrower shall obtain all governmental approvals then required by law for the acquisition, construction, ownership and operation of the Project by the Borrower. The Borrower shall submit evidence satisfactory to the Lender and the Commissioner of such approvals. The Borrower shall furnish to the Lender, on or before the making of the final advance, the final certificates of approval, including the permanent certificates of occupancy, of the various governmental authorities having jurisdiction and the certificates of the Board of Fire Underwriters acting in and for the locality in which the Project is situated.

V. No advance shall be due unless in the judgment of the Lender, subject to the certification of the Commissioner, that all work usually done at the stage of construction attained when the advance is requested has been done in good and workmanlike manner and all materials, supplies, chattels and fixtures usually furnished and installed at such stage of construction have been furnished and installed, or properly stored on site or off site and properly insured as approved by the Commissioner, and the Lender; nor unless the Lender is satisfied, subject to the certification of the Commissioner, that construction of the improvements at the stage for which the advance is required is proper. The making of any advance or part thereof shall not be deemed an approval or acceptance by the Lender or Commissioner of the work theretofore done. The Lender shall have no obligation to make any advance or part thereof after the happening of any of the events specified in Article XII of this agreement but shall have the right and option so to do, provided, however, that if it elects to make any such advance no such advance shall be deemed a waiver of the right to demand payment of the debt, or any part thereof, or an obligation to make any other advance. All advances are to be made at the principal office of the Lender, or at such place as the Lender may designate and the Lender may require fifteen (15) days' prior notice in writing before the making of any such advance.

VI. The Borrower shall furnish, or cause to be furnished, to the Lender, before the execution of this agreement, mortgage title insurance or certificates thereof, issued by a Title Insurance Company or Companies, satisfactory to the Lender, and in such amounts as shall be

required by the Lender, insuring the interest of the Lender as mortgagee as a valid first lien on the real estate, free and clear of all liens and encumbrances which in the opinion of the Lender and the Commissioner do not materially affect the value or usefulness of such real estate for the intended use thereof. No advance shall be due, and it shall be a condition precedent to each advance that such title company shall continue its search to the date of each such advance and shall certify to the Lender in writing that such continuation discloses no liens or encumbrances affecting such real estate, which in the opinion of the Lender and the Commissioner do not materially affect the value or usefulness of such real estate for the intended use thereof.

VII. Prior to any advance hereunder and as a condition precedent to each advance, the Borrower shall furnish, or cause to be furnished, or the Lender may procure at the expense of the Borrower, surveys made by a licensed surveyor satisfactory to the Lender, the Commissioner and the Title Insurance Company or Companies insuring the interest of the Lender as mortgagee. Said surveys shall be certified to the Lender, the Commissioner and said Title Insurance Company or Companies and shall show such items as the Lender or the Commissioner may from time to time require.

VIII. The Lender may extend the time for payment of the sums owing under the Mortgage Loan and any such extension shall be deemed to be in pursuance of this agreement and not in modification thereof.

IX. When required by the Lender, the Borrower shall furnish to the Lender, premium prepaid, or the Lender may procure at the Borrower's expense, fire and other hazard insurance policies (in builders risk completed value form, including extended coverage) covering the buildings and all fixtures and articles of personal property now installed therein, attached thereto or used in connection therewith, in companies, forms and amounts satisfactory to the Lender and the Commissioner.

X. In the event the Borrower shall part with or be in any manner whatever deprived of its title to the premises described herein, the Lender may, at its option, continue to make advances under this agreement, and subject to all its terms and conditions, to such person or persons as may succeed to the Borrower's title and interest, and all sums so advanced shall be deemed advances under this agreement, secured by the Mortgage.

XI. The Lender may pay any amount necessary for the payment of any expenses relating to the examination of the title to said premises including costs of surveys, drawing of papers and other fees and expenses of counsel, documentary stamps, and any expenses incurred in the procuring and making of this Mortgage Loan, and in the payment of any encumbrance, tax, assessment or other charge or lien upon the said premises and any other amounts necessary for the payment of the cost of the improvements as defined by the Lien Law. All such payments, as well as any and all sums paid or expended by the Lender pursuant to any of the provisions of this agreement, shall be deemed advances to the Borrower under this agreement and secured by the Mortgage.

XII. The Borrower agrees not to do any act or thing prohibited by the terms of this agreement, and whenever and as often as any of the following events occur, any obligation on the Lender's part to make this Mortgage Loan or any advances hereunder shall cease if the Lender so elects, and the Note and Mortgage shall at the option of the Lender become immediately due and payable, but the Lender may make advances without becoming obligated to make any other or further advances:

(a) If the Borrower fails to comply with any of the covenants or provisions of this agreement or of the Note and Mortgage;

(b) If the Borrower fails to comply with any of the provisions of the Limited-Profit Housing Companies Law;

(c) If under the Mortgage, the Lender does not obtain a lien for the indebtedness intended to be secured thereby on the premises above set forth satisfactory to Lender and its counsel and the Commissioner;

(d) If Lender or its counsel or the Commissioner shall disapprove of any requested advance because of some act, omission, lien, encumbrance, or structural defect occurring

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at any time after the commencement of construction or not previously discovered or objected to by Lender or its counsel or the Commissioner;

(e) If the Borrower assigns this contract or any of the advances or any interest therein, or its right to receive any advance or portion thereof, or if said premises be conveyed or encumbered in any manner without the consent of the Lender, except for mortgages or leases which are and which shall remain subordinate in lien and effect to the lien of the Mortgage securing this agreement, or if the Borrower shall by operation of law be deprived of its rights hereunder;

(f) If a building or any portion thereof shall encroach beyond the subject property lines or on any easement over the premises or violate the requirements of any governmental authority having jurisdiction, or if any adjoining building shall encroach upon the premises above described or on any dominant easement appurtenant thereto;

(g) If the improvements on said premises be, in the judgment of the Lender, materially injured or destroyed by fire or other cause;

(h) If a petition in bankruptcy be filed by or against the Borrower or the then owner, or a receiver or trustee of the property of the Borrower or the then owner be appointed, or if the Borrower or the then owner makes an assignment for the benefit of creditors or is adjudged insolvent by any State or Federal court, except that in the case of an involuntary petition, action or proceeding for the adjudication as a bankrupt or for the appointment of a receiver or trustee of the property of the Borrower or the then owner not initiated by the Borrower or the then owner, the Borrower or the then owner shall have sixty (60) days after the service of such petition or the commencement of such action or proceeding, as the case may be, within which to obtain a dismissal of such petition, action or proceeding, provided that the Borrower is not otherwise in default under the terms of the Mortgage, including, but not limited to, the payment of interest, principal and any other payments;

(i) If the Borrower does not erect and equip the Project in a good and workmanlike manner in accordance with the plans and specifications approved by all governmental authorities having jurisdiction, by the Lender and by the Commissioner; or fails to comply immediately with any requirement or notice of violation of law issued by or filed in any department of any governmental authority having jurisdiction of the Project or the Borrower by reason of any matter in or concerning the construction of the Project, or fails to furnish to the Lender when requested official searches made by governmental authorities having jurisdiction;

(j) If the construction of Project be at any time discontinued or not carried on with reasonable dispatch in the judgment of the Lender or of the Commissioner, no matter what the cause therefor may be;

(k) If the Lender or the Commissioner is not permitted, at all reasonable times, to inspect and audit all books and records of Borrower, to enter upon said premises, inspect the Project and the construction thereof and all materials, fixtures and articles used or to be used in the construction and to examine all detailed plans, shop drawings and specifications which are or may be kept at the Project site, or if the Borrower shall fail to furnish to the Lender, or the Commissioner when requested, copies of such plans, drawings or specifications;

(l) If any of the materials, fixtures or articles used in the construction of the Project or appurtenances thereto or to be used in the operation thereof be not in compliance with the plans and specifications and any changes therein approved by the Commissioner;

(m) If the Borrower executes any conditional bill of sale or chattel mortgage covering any materials, fixtures or articles used in the construction of the Project or appurtenances thereto, or articles of personal property included in the Project, or if any of such materials, fixtures or articles be not purchased so that the ownership thereof will vest unconditionally in the Borrower, free from encumbrance, on delivery at the premises, or if the Borrower does not produce for the Lender upon demand the contracts, bills of sale, statements, receipted vouchers, or agreements, or any of them under which the Borrower claims title to such materials, fixtures and articles;

(n) If the Borrower does not disclose to the lender or the Commissioner upon demand, the names of all persons with whom the Borrower contracted or intends to contract for the construction of the Project or the furnishing of labor or materials therefor, and furnish thereto copies of subcontracts within thirty (30) days after execution of each subcontract, or, when so required by the Lender or Commissioner, fails to obtain their acceptance of such subcontracts;

(o) If the Project, in the sole discretion of the Lender, is not completed on or before the date set forth in Paragraph II hereof, or on or before the date of any extensions thereof granted or approved by the Commissioner.

XIII. Notices from the Lender to the Borrower may be given by mailing the same to the Borrower at its address above set forth, and any notice so given shall be deemed to be sufficient for all purposes.

XIV. The Borrower covenants that it will receive the advances to be made hereunder and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of the improvements and that it will apply the same first to the payment of the cost of improvements before using any part of the total of the same for any other purpose.

XV. The Borrower covenants that the affidavit attached hereto and made a part hereof and marked SCHEDULE B is made pursuant to and in compliance with Section 22 of the Lien Law.

XVI. The Borrower within three (3) days upon request in person or within five (5) days upon request by mail will furnish an estoppel certificate or written statement, duly acknowledged of the amount advanced to it under this agreement and/or the amount due on the Mortgage and whether any offsets or defenses exist hereunder or against this Mortgage Loan.

XVII. The Note and Mortgage to be delivered pursuant to this agreement shall be made subject to all the provisions of this agreement, to the same extent and effect as if the provisions of this agreement were fully set forth and made a part thereof, and if the Borrower shall fail to keep, observe or perform any of the provisions of the Note and Mortgage or of this agreement or if the obligor or maker or mortgagor under the Note and Mortgage shall fail to keep, observe or perform any of the provisions thereof, the amount secured thereby shall, at the option of the Lender, become immediately due and payable.

XVIII. If the Borrower at any time prior to the completion of the Project abandons the same or ceases work thereon or fails to complete the Project strictly in accordance with the plans and specifications, except as to changes approved by the Commissioner, or makes changes in the plans and specifications without first securing written approval of the Commissioner or otherwise fails to comply with the terms hereof, then the Lender, at its option, may forthwith enter into possession of the premises and perform any and all work and labor necessary to complete the Project substantially in accordance with the plans and specifications and employ watchmen to protect the premises and the Project under construction from injury; all sums so expended by the Lender shall be deemed to have been paid to Borrower and secured by the Mortgage. For this purpose, the Borrower hereby constitutes and appoints the Lender its true and lawful attorney-in-fact with full power of substitution to complete the Project in the name of the Borrower, and hereby empowers said attorney as follows: to use any funds of the Borrower including any balance which may be held in escrow and any funds which may remain unadvanced hereunder for the purpose of completing the Project in the manner called for by the plans and specifications; to make additions and changes and corrections in the plans and specifications which shall be necessary or desirable to complete the Project in substantially the manner contemplated by the plans and specifications; to employ such contractors, subcontractors, agents, architects and inspectors as shall be required for said purposes; to pay, settle or compromise all existing bills and claims which are or may be liens against the said premises, or as may be necessary or desirable for the completion of the work, or for the clearance of title; execute all applications and certificates in the name of the Borrower which may be required by any of the contract documents and to do any and every act which the Borrower might do in its own behalf. It is further understood and agreed that this power-of-attorney shall be deemed to

be a power coupled with an interest which cannot be revoked. Said attorney shall also have power to prosecute and defend all actions or proceedings in connection with the construction of the Project or mortgaged premises and to take such action and require such performance as is deemed necessary. The Borrower hereby assigns and quitclaims to the Lender all sums to be advanced hereunder and all sums in escrow conditioned upon the use of said sums if any, in trust, in completion of the Project, such assignment to become effective, however, only in case of the Borrower's default.

XIX. The Borrower shall furnish or cause to be furnished such performance and payment bonds as the Commissioner and Lender shall require. If it becomes necessary for a Surety Company or Companies (hereinafter called the "Surety") furnishing to the Lender performance and payment bonds covering the Project or any part thereof, to arrange for completion of the Project, the Lender shall, in case the Project is continued as provided in this agreement, continue to make advances under this agreement and the aforementioned construction contract and subject to all their terms and conditions, to the Surety, and all sums so advanced by the Lender shall be deemed advances under this agreement and not to be modifications thereof, as if made to the Borrower, and shall be secured by the Mortgage.

XX. The proceeds of this loan herein described will be used in part to reimburse the Borrower for payments made prior to the initial advance hereunder for items of "cost of improvement" as defined in subdivision 5 of Section 2 of the Lien Law, which payments for items of "cost of improvement" were all made subsequent to the commencement of the improvement herein provided for.

XXI. Except as herein otherwise provided, this agreement may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

NEW YORK STATE HOUSING FINANCE AGENCY

By .....
Executive Director

(SEAL)

Attest:
.....

(SEAL) RIVERBAY CORPORATION

By .....
President

Attest:
.....
Assistant Secretary

Approved: July 15, 1965

.....
Commissioner of Housing and Community Renewal

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 15th day of July, 1965, before me personally came Paul Belica to me known, who, being by me duly sworn, did depose and say that he resides at 359 Cedar Drive, Briarcliff Manor, New York, that he is Executive Director of the New York State Housing Finance Agency, the Agency described in and which executed the foregoing instrument; that he knows the seal of said Agency; the seal affixed to said instrument is the official seal of said Agency; that it was so affixed by order of the Members of said Agency, and that he signed his name thereto by like order.

ROY GAINSBURG
Notary Public, State of New York
No. 31-1257350
Qualified in New York County
Commission Expires March 30, 1967

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 15th day of July, 1965, before me personally came Abraham E. Kazan to me known, who, being by me duly sworn, did depose and say that he resides at 130 Gale Place, Bronx, New York, that he is the President of RIVERBAY CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

ROY GAINSBURG
Notary Public, State of New York
No. 31-1257350
Qualified in New York County
Commission Expires March 30, 1967

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SCHEDULE A

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough and County of the Bronx, City and State of New York, more particularly described in Schedule A-1 annexed hereto as Parcel I.

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough and County of the Bronx, City and State of New York, more particularly described in Schedule A-1 annexed hereto as Parcel II.

Together with all the right, title and interest of the Mortgagor, if any, of, in and to beds of the streets, roads and avenues, and any easements over property, in front of and adjoining the above-described premises;

Together with any and all structures, buildings and improvements and replacements thereof and additions thereto, now or at any time hereafter constructed, erected, installed or placed in or upon the above-described real estate and any and all fixtures, fittings, appliances, apparatus, equipment, machinery, chattels and articles of personal property, including but not limited to steam and hot water boilers, pipes, radiators, bath tubs, water-closets, refrigerators, gas and electrical fixtures, ranges and replacements thereof, now or at any time hereafter affixed to, attached to, placed upon or used or stored on or off the site or in any way connected with the complete and comfortable use, enjoyment, occupancy or operation of the plant of the said mortgaged premises (excepting only removable trade fixtures and other personal effects owned or possessed by the tenants who may occupy the mortgaged premises).

SCHEDULE A-1

PARCEL I

ALL that certain plot, piece or parcel of land situate, lying and being in the Borough and County of the Bronx, City and State of New York, bounded and described as follows:

BEGINNING at the intersection of the easterly side of Hutchinson River Parkway Extension as legally opened July 19, 1941, with the westerly U.S. Pierhead and Bulkhead Line of the Hutchinson (Eastchester Creek) River, as approved by the Secretary of War October 28, 1940, having coordinates North 31,848.67 West 21,256.51; thence along said U. S. Pierhead and Bulkhead Line the following bearings and distances; South 50 degrees, 45 minutes 28.7 seconds East 123.589 feet; South 16 degrees 59 minutes 47.6 seconds East 615.405 feet; South 4 degrees 30 minutes 56.5 seconds East 706.572 feet and South 12 degrees 13 minutes 19.5 seconds West 460.965 feet; thence South 48 degrees 02 minutes 53 seconds East 331.061 feet to the southerly U. S. Pierhead and Bulkhead Line of Givans Creek as approved by the Secretary of War October 28, 1940; thence along the westerly U.S. Pierhead and Bulkhead Line of Hutchinson River, South 53 degrees 57 minutes 51.9 seconds East 5.010 feet to the northerly property line of land now or formerly of the New York, New Haven and Hartford Railroad Company; thence along said northerly property line of said railroad on a curve to the right having a radius of 2,192.50 feet, a distance of 370.27 feet; thence still along said northerly property line of said railroad South 39 degrees 41 minutes 21.4 seconds East a distanceof 20.00 feet; thence still along said northerly property line of said railroad on a curve to the right, having a radius of 2,507.3 feet a distance of 705.37 feet; thence still along said northerly property line of said railroad South 66 degrees 25 minutes 47 seconds West a distance of 404.07 feet to the prolongation southerly of the easterly side of Hunter Avenue (Lorillard Avenue) as laid out on Map of Pelham Park by C. J. Byrne, July 4, 1873, filed Westchester County September 20, 1873, as Map No. 599; thence northerly along said prolongation and along the easterly line of said Hunter Avenue as laid out on said map 559.32 feet to a point in the most southerly line of Lot 51 in Block 5135 on the Tax Map of the City of New York for the Borough of Bronx; thence westerly along said most southerly line of said tax lot 51 in Block 5135 a distance of 150.00 feet to the westerly line of said tax lot 51; thence northerly along said last mentioned line 150.00 feet to the southerly line of said tax lot 51; thence westerly along said last mentioned line 100.00 feet to the easterly side of Boller Avenue (Sea View Avenue) as shown on Map No. 599 above mentioned; thence northerly along said easterly side of

SCHEDULE A-1 (Continued)

Boller Avenue 306.85 feet to the easterly or southeasterly side of Hutchinson River Parkway Extension; thence northeasterly along the southeasterly side of said Hutchinson River Parkway Extension as presently laid out the following four courses and distances: (1) North 34 degrees 06 minutes 23.3 seconds East a distance of 1,102.34 feet; (2) North 66 degrees 58 minutes 06.6 seconds East a distance of 29.85 feet; (3) North 16 degrees 59 minutes 47 seconds West a distance of 20.81 feet; (4) North 34 degrees 06 minutes 23.3 seconds East a distance of 1,291.32 feet to the point or place of BEGINNING.

PARCEL II

ALL that certain lot, piece or parcel of land situate, lying and being in the Borough and County of the Bronx, City and State of New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly boundary of the New England Thruway as laid out on a map filed May 17, 1948, as Map No. 2041, Bronx County, said point being 2,533.59 feet distant northwesterly along said easterly boundary from the point of intersection of the northerly boundary of Hutchinson River Parkway with said easterly boundary; running thence along said easterly boundary North 18 degrees 58 minutes 57.7 seconds West a distance of 99.80 feet to a point; thence still along said easterly boundary North 23 degrees 06 minutes 19.2 seconds West a distance of 20.18 feet to a point; thence North 71 degrees 01 minute 02 seconds East a distance of 219.91 feet to a point; thence North 3 degrees 11 minutes 40.8 seconds East a distance of 101.36 feet to a point; thence North 61 degrees 02 minutes 19.2 seconds West a distance of 38.28 feet to a point of curvature; thence along a curve bearing to the left, having a radius of 180.3 feet a distance of 97.55 feet to a point; thence South 87 degrees 57 minutes 40.8 seconds West a distance of 175.02 feet to a point on the easterly boundary of the New England Thruway; thence along said easterly boundary North 23 degrees 06 minutes 19.2 seconds West a distance of 891.66 feet to a point of curvature; running thence along said easterly boundary and along a curve bearing to the right, having a radius of 1,500 feet, a distance of 413.18 feet to a point of compound curvature; thence still along said easterly boundary and along a curve bearing to the right having a radius of 3,862 feet, a distance of 445.22 feet to a point of compound curvature; thence still along said easterly boundary and along a curve bearing to the right, having

SCHEDULE A-1 (Continued)

a radius of 9,862 feet, a distance of 652.73 feet to a point of compound curvature; thence still along said easterly boundary and along a curve bearing to the right having a radius of 2,862 feet a distance of 382.33 feet; thence still along said easterly boundary and along a curve bearing to the right having a radius of 2,112 feet a distance of 457.18 feet to a point; thence still along said easterly boundary along a curve bearing to the right having a radius of 1,900 feet a distance of 391.28 feet to a point of tangency in the bed of former Wright Avenue; thence still along said easterly boundary North 34 degrees 55 minutes 50.4 seconds East a distance of 261.32 feet to a point; thence South 37 degrees 04 minutes 09.6 seconds East a distance of 338.59 feet to a point of curvature; thence along a curve bearing to the left having a radius of 600.0 feet, a distance of 796.25 feet to a point; thence North 66 degrees 53 minutes 40.8 seconds East a distance of 1406.93 feet to a point; thence North 14 degrees 31 minute 29 seconds East a distance of 662.90 feet to a point on the southerly side of Givan Avenue as vested in the City of New York on November 22, 1960 and on April 1, 1958; thence along said southerly side North 66 degrees 53 minutes 40.8 seconds East a distance of 44.93 feet to the westerly line of Conner Street as now laid out and vested in the City of New York; thence South 38 degrees 21 minutes 25.0 seconds East along the westerly side of Conner Street as now laid out and vested in the City of New York a distance of 210.62 feet to a point where the same is intersected by the westerly side of an Old Road; thence in a southerly direction and along the westerly side of said Old Road the following three courses and distances: (1) South 5 degrees 44 minutes 50 seconds East a distance of 146.80 feet; (2) South 11 degrees 08 minutes 00 seconds East a distance of 67.58 feet; and (3) South 4 degrees 09 minutes 30 seconds East a distance of 2.02 feet to a point; thence in an easterly direction across Old Road North 85 degrees 50 minutes 30 seconds East a distance of 10/13 feet to the westerly line of land acquired by the City of New York in the opening of "Public Place"; thence South 14 degrees 31 minutes 29 seconds West and along the said westerly line of the land so acquired a distance of 270.77 feet to the southerly line of the land so acquired; thence South 75 degrees 28 minutes 31.? seconds East and along the southerly line of the land so acquired a distance of 325.30 feet to its intersection with the United States Pierhead and Bulkhead Line of the Hutchinson River as approved by the Secretary of War on October 28, 1940, the coordinates of said point being 36019.585 North and 21426.443 West; thence in a generally southerly direction and along the said Pierhead and Bulkhead Line the following six courses and distances: (1) South 14 degrees 31 minutes 28.8 seconds West a distance of 400.902 feet; (2) South 17 degrees 14 minutes 17.8 seconds West a distance of 989.050 feet; (3) South 14 degrees 30 minutes 23.3 seconds West a distance of 382.151 feet to a point; (4) South 08 degrees 00 minutes 32.5 seconds West a distance of 611.408 feet to a

SCHEDULE A-1 (Continued)

point; (5) South 01 degrees 37 minutes 40.7 seconds East a distance of 1285.023 feet to a point; and (6) South 50 degrees 45 minutes 28.5 seconds East a distance of 562.737 feet to a point on the aforementioned northerly boundary of Hutchinson River Parkway; thence along said northerly boundary South 34 degrees 06 minutes 23.3 seconds West a distance of 145.00 feet to a point; thence North 74 degrees 23 minutes 37 seconds West a distance of 720.81 feet to a point of curvature; thence along a curve bearing to the left, having a radius of 2,587.6 feet, a distance of 1,561.85 feet to a point; thence South 71 degrees 01 minute 02 seconds West a distance of 352.16 feet to the point or place of BEGINNING.

EXHIBIT "10" - BUILDING LOAN AGREEMENT, DATED JULY 15, 1965 -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

SCHEDULE B

BORROWER'S AFFIDAVIT

Annexed to and being a part of a

Building Loan Agreement dated July 15, 1965,

between

RIVERBAY CORPORATION
(Borrower), and

NEW YORK STATE HOUSING FINANCE AGENCY (Lender)

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss:

ABRAHAM E. KAZAN, being duly sworn, deposes and says:
I reside at 130 Gale Place, Bronx, New York
I am the President of RIVERBAY CORPORATION
the Borrower mentioned in the annexed Building Loan Agreement;

The consideration paid or to be paid, by the Borrower to the Lender for the loan described therein is the sum of $ 501,700; and that all other estimated expenses incurred or to be incurred in connection with said loan are as follows:

Examination and insurance of title and recording fees	$ 340,000
Attorneys Fees	$ 150,000
Fees of architects, engineers and surveyors	$ 3,800,000
Fees and charges of Lender	$ 2,509,000
Selling Expenses	$

The net sum available to the said Borrower for the improvement is Two Hundred Twenty-Nine Million Three Hundred Fifty-Four Thousand Nine Hundred Ten ($229,354,910) Dollars, less such amounts as may become due or payable for insurance premiums, interest on the Mortgage described in the annexed Building Loan Agreement, ground rents, taxes, assessments, water rents and sewer rents accruing during the making of the improvement, and less such amounts necessary to reimburse the said Borrower for payments made prior to the initial advance under this Building Loan Agreement, and to pay for those items of cost of said improvement, as defined in subdivision 5 of Section 2 of the Lien Law.

This statement is made pursuant to Section 22 of the Lien Law of the State of New York.

The reason this statement is made by deponent and not by the Borrower is that the Borrower is a corporation and deponent is an officer thereof.

The facts herein stated are true to the knowledge of deponent.

Abraham E. Kazan

Sworn to before me
this 15th
day of July,
1965.

ROY GAINSBURG
Notary Public, State of New York
No. 31-1397840
Qualified in New York County
Commission Expires March 30, 1967

MODIFICATION NUMBER ONE

OF

BUILDING LOAN AGREEMENT

AGREEMENT, dated as of the 17th day of March, 1967 between NEW YORK STATE HOUSING FINANCE AGENCY, an agency created pursuant to the provisions of the New York State Housing Finance Agency Act (hereinafter referred to as the "Lender") of 393 Seventh Avenue, Borough of Manhattan, City, County and State of New York and RIVERBAY CORPORATION, a corporation organized and existing under and by virtue of the Limited-Profit Housing Companies Law of the State of New York, constituting a mutual company thereunder, having an office at 465 Grand Street, Borough of Manhattan, City and State of New York (hereinafter referred to as the "Borrower");

WHEREAS, the Lender and the Borrower entered into a Building Loan Agreement dated as of July 15, 1965, and filed in the Office of the County Clerk of Bronx County on July 16, 1965, which Building Loan Agreement is hereinafter referred to as the "Building Loan Agreement"; and

WHEREAS, under the Building Loan Agreement, the Lender agreed to loan to the Borrower the amount of Two Hundred Thirty-Six Million Six Hundred Fifty-Five Thousand Seven Hundred Ten ($236,655,710) Dollars; and

WHEREAS, in addition to the amount of Two Hundred Thirty-Six Million Six Hundred Fifty-Five Thousand Seven Hundred Ten ($236,655,710) Dollars agreed to be loaned by the Lender to the Borrower pursuant to the Building Loan Agreement, the Lender has agreed to lend to the Borrower the amount of Ten Million One Hundred Thousand ($10,100,000) Dollars pursuant to the Building Loan Agreement, so that the aggregate amount to be loaned by the Lender to the Borrower under the Building Loan Agreement shall be Two Hundred Forty-Six Million Seven Hundred Fifty-Five Thousand Seven Hundred Ten ($246,755,710) Dollars; and

WHEREAS, the Lender and the Borrower have agreed to further modify the Building Loan Agreement to provide for the aforesaid increase in this Mortgage Loan; and

WHEREAS, to provide for the issuance of Bonds in order to obtain from time to time monies with which to make Mortgage Loans, the Lender has adopted, on April 2, 1965, its Non-Profit Housing Project Bond Resolution, and proposes to adopt one or more resolutions authorizing the issuance of Notes for the same purpose; and

WHEREAS, the monies borrowed by the Lender through the issuance of Bonds and Notes for the purpose of paying interest on the Bonds and Notes issued by the Lender to obtain funds with which to make this loan to the Borrower shall constitute a part of, and be included in the computation of this Mortgage Loan;

NOW, THEREFORE, the parties agree:

1. The first paragraph of Article I of the Building Loan Agreement is hereby deleted and the following paragraph is hereby substituted therefor:

> "I. The Lender agrees to make, and the Borrower agrees to accept, a loan of Two Hundred Forty-Six Million Seven Hundred Fifty-Five Thousand Seven Hundred Ten ($246,755,710) Dollars, to be advanced as herein provided, and to be evidenced by the Borrower's notes, payable with interest and amortization as therein provided and secured by mortgages (hereinafter referred to as the "Mortgage") on the premises described in Schedule A."

2. The first paragraph of Article II of the Building Loan Agreement is hereby deleted and the following paragraph is substituted therefor:

> "II. The Borrower will construct on the premises the following described Project on or before August 1, 1970:
>
> Thirty-five fireproof apartment buildings, ten of which shall be 24 stories, ten of which shall be 26 stories and fifteen of which shall be 33 stories, and 236 two-family, 3-story town houses, containing an aggregate of 15,372 apartments, commercial buildings containing approximately 7,050,000 cubic feet, a community center, a power plant building and on-site parking facilities for 10,850 cars."

3. The fourth sentence of the first paragraph of Article III of the Building Loan Agreement is hereby deleted and the following sentence is substituted therefor:

> "However, at no time will any advance or payment be made by the Lender to the Borrower which would result in a loan in excess of eighty-eight and 80/100 per cent (88.8%) of the then "Project Cost", as defined and determined in accordance with the provisions of the Limited-Profit Housing Companies Law at the time of each such advance or payment."

4. Whenever in the Building Loan Agreement reference is made to the "Note" or "Mortgage" securing the Mortgage Loan executed by Borrower, such terms shall be deemed to apply and refer to the mortgage notes and mortgages, securing the loan made and to be made by the Lender pursuant to the Building Loan Agreement, as hereby amended.

5. Schedule B annexed hereto shall be and the same hereby is substituted for Schedule B heretofore annexed to the Building Loan Agreement.

6. Except as herein amended, the Building Loan Agreement shall remain in full force and effect and in the event of any inconsistency between the Building Loan Agreement and this Modification Number One of Building Loan Agreement, the provisions of this Modification Number One of Building Loan Agreement shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ATTEST:

Secretary
Assistant Attorney

NEW YORK STATE HOUSING FINANCE AGENCY

By
Paul Belica, Executive Director

ATTEST:

Assistant Secretary

RIVERBAY CORPORATION

By
Harold Ostroff, President

APPROVED the 14th day of April, 1967.

Commissioner of Housing and Community Renewal of the State of New York.

By
Deputy Commissioner of Housing and Community Renewal of the State of New York

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EXHIBIT "11" - MODIFICATION NO. 1 OF BUILDING LOAN AGREEMENT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 14th day of April, 1967, before me personally came PAUL BELICA, to me known, who, being by me duly sworn, did depose and say that he resides at No. 359 Cedar Drive, Briarcliff Manor, New York; that he is Executive Director of the New York State Housing Finance Agency, the Agency described in and which executed the foregoing instrument; that he knows the seal of said Agency; that the seal affixed to said instrument is the official seal of said Agency; that it was so affixed by order of the Members of said Agency, and that he signed his name thereto by like order.

Notary Public

ROY GAINSBURG
Notary Public, State of New York
No. 31-1357010
Qualified in New York County
Commission Expires March 30, 1969

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 14th day of April, 1967, before me personally came HAROLD OSTROFF, to me known, who, being by me duly sworn, did depose and say that he resides at No. 3915 Orloff Avenue, Bronx 63, New York; that he is the President of RIVERBAY CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; that he signed his name thereto by like order.

Notary Public

ROY GAINSBURG
Notary Public, State of New York
No. 31-1357010
Qualified in New York County
Commission Expires March 30, 1969

EXHIBIT "11" - MODIFICATION NO. 1 OF BUILDING LOAN AGREEMENT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

SCHEDULE A

PARCEL I

ALL that certain plot, piece or parcel of land situate, lying and being in the Borough and County of the Bronx, City and State of New York, bounded and described as follows:

BEGINNING at the intersection of the easterly side of Hutchinson River Parkway Extension as legally opened July 19, 1941, with the westerly U.S. Pierhead and Bulkhead Line of the Hutchinson (Eastchester Creek) River, as approved by the Secretary of War October 28, 1940, having coordinates North 31,848.67 West 21,256.51; thence along said U. S. Pierhead and Bulkhead Line the following bearings and distances; South 50 degrees, 45 minutes 28.7 seconds East 123.589 feet; South 16 degrees 59 minutes 47.6 seconds East 615.405 feet; South 4 degrees 30 minutes 56.5 seconds East 706.572 feet and South 12 degrees 13 minutes 19.5 seconds West 460.965 feet; thence South 48 degrees 02 minutes 53 seconds East 331.061 feet to the southerly U. S. Pierhead and Bulkhead Line of Givans Creek as approved by the Secretary of War October 28, 1940; thence along the westerly U.S. Pierhead and Bulkhead Line of Hutchinson River, South 53 degrees 57 minutes 51.9 seconds East 5.010 feet to the northerly property line of land now or formerly of the New York, New Haven and Hartford Railroad Company; thence along said northerly property line of said railroad on a curve to the right having a radius of 2,192.50 feet, a distance of 370.27 feet; thence still along said northerly property line of said railroad South 39 degrees 41 minutes 21.4 seconds East a distanceof 20.00 feet; thence still along said northerly property line of said railroad on a curve to the right, having a radius of 2,507.3 feet a distance of 705.37 feet; thence still along said northerly property line of said railroad South 66 degrees 25 minutes 47 seconds West a distance of 404.07 feet to the prolongation southerly of the easterly side of Hunter Avenue (Lorillard Avenue) as laid out on Map of Pelham Park by C. J. Byrne, July 4, 1873, filed Westchester County September 20, 1873, as Map No. 599; thence northerly along said prolongation and along the easterly line of said Hunter Avenue as laid out on said map 559.32 feet to a point in the most southerly line of Lot 51 in Block 5135 on the Tax Map of the City of New York for the Borough of Bronx; thence westerly along said most southerly line of said tax lot 51 in Block 5135 a distance of 150.00 feet to the westerly line of said tax lot 51; thence northerly along said last mentioned line 150.00 feet to the southerly line of said tax lot 51; thence westerly along said last mentioned line 100.00 feet to the easterly side of Boller Avenue (Sea View Avenue) as shown on Map No. 599 above mentioned; thence northerly along said easterly side of

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SCHEDULE A (Continued)

Boller Avenue 306.85 feet to the easterly or southeasterly side of Hutchinson River Parkway Extension; thence northeasterly along the southeasterly side of said Hutchinson River Parkway Extension as presently laid out the following four courses and distances: (1) North 34 degrees 06 minutes 23.3 seconds East a distance of 1,102.34 feet; (2) North 66 degrees 58 minutes 06.6 seconds East a distance of 29.85 feet; (3) North 16 degrees 59 minutes 47 seconds West a distance of 20.81 feet; (4) North 34 degrees 06 minutes 23.3 seconds East a distance of 1,291.32 feet to the point or place of BEGINNING.

PARCEL II

ALL that certain lot, piece or parcel of land situate, lying and being in the Borough and County of the Bronx, City and State of New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly boundary of the New England Thruway as laid out on a map filed May 17, 1948, as Map No. 2041, Bronx County, said point being 2,533.59 feet distant northwesterly along said easterly boundary from the point of intersection of the northerly boundary of Hutchinson River Parkway with said easterly boundary; running thence along said easterly boundary North 16 degrees 58 minutes 57.7 seconds West a distance of 99.88 feet to a point; thence still along said easterly boundary North 23 degrees 06 minutes 19.2 seconds West a distance of 20.18 feet to a point; thence North 71 degrees 01 minute 02 seconds East a distance of 219.91 feet to a point; thence North 3 degrees 11 minutes 40.8 seconds East a distance of 101.36 feet to a point; thence North 61 degrees 02 minutes 19.2 seconds West a distance of 38.28 feet to a point of curvature; thence along a curve bearing to the left, having a radius of 180.3 feet a distance of 97.55 feet to a point; thence South 87 degrees 57 minutes 40.8 seconds West a distance of 175.02 feet to a point on the easterly boundary of the New England Thruway; thence along said easterly boundary North 23 degrees 06 minutes 19.2 seconds West a distance of 891.66 feet to a point of curvature; running thence along said easterly boundary and along a curve bearing to the right, having a radius of 1,500 feet, a distance of 413.18 feet to a point of compound curvature; thence still along said easterly boundary and along a curve bearing to the right having a radius of 3,862 feet, a distance of 445.22 feet to a point of compound curvature; thence still along said easterly boundary and along a curve bearing to the right, having

SCHEDULE A (Continued)

a radius of 9,862 feet, a distance of 652.73 feet to a point of compound curvature; thence still along said easterly boundary and along a curve bearing to the right having a radius of 2,862 feet a distance of 382.33 feet; thence still along said easterly boundary and along a curve bearing to the right having a radius of 2,112 feet a distance of 457.18 feet to a point; thence still along said easterly boundary along a curve bearing to the right having a radius of 1,900 feet a distance of 391.28 feet to a point of tangency in the bed of former Wright Avenue; thence still along said easterly boundary North 34 degrees 55 minutes 50.4 seconds East a distance of 261.32 feet to a point; thence South 37 degrees 04 minutes 09.6 seconds East a distance of 338.59 feet to a point of curvature; thence along a curve bearing to the left having a radius of 600.0 feet, a distance of 796.25 feet to a point; thence North 66 degrees 53 minutes 40.8 seconds East a distance of 1406.93 feet to a point; thence North 14 degrees 31 minute 29 seconds East a distance of 662.90 feet to a point on the southerly side of Givan Avenue as vested in the City of New York on November 22, 1960 and on April 1, 1958; thence along said southerly side North 66 degrees 53 minutes 40.8 seconds East a distance of 44.93 feet to the westerly line of Conner Street as now laid out and vested in the City of New York; thence South 38 degrees 21 minutes 25.0 seconds East along the westerly side of Conner Street as now laid out and vested in the City of New York a distance of 210.62 feet to a point where the same is intersected by the westerly side of an Old Road; thence in a southerly direction and along the westerly side of said Old Road the following three courses and distances: (1) South 5 degrees 44 minutes 50 seconds East a distance of 146.80 feet; (2) South 11 degrees 08 minutes 00 seconds East a distance of 67.58 feet; and (3) South 4 degrees 09 minutes 30 seconds East a distance of 2.02 feet to a point; thence in an easterly direction across Old Road North 85 degrees 50 minutes 30 seconds East a distance of 10/13 feet to the westerly line of land acquired by the City of New York in the opening of "Public Place"; thence South 14 degrees 31 minutes 29 seconds West and along the said westerly line of the land so acquired a distance of 270.77 feet to the southerly line of the land so acquired; thence South 75 degrees 28 minutes 31.2 seconds East and along the southerly line of the land so acquired a distance of 325.00 feet to its intersection with the United States Pierhead and Bulkhead Line of the Hutchinson River as approved by the Secretary of War on October 28, 1940, the coordinates of said point being 36019.585 North and 21426.448 West; thence in a generally southerly direction and along the said Pierhead and Bulkhead Line the following six courses and distances: (1) South 14 degrees 31 minutes 28.8 seconds West a distance of 400.902 feet; (2) South 17 degrees 14 minutes 17.8 seconds West a distance of 989.050 feet; (3) South 14 degrees 30 minutes 23.3 seconds West a distance of 382.151 feet to a point; (4) South 08 degrees 00 minutes 32.5 seconds West a distance of 611.408 feet to a

SCHEDULE A (Continued)

point; (5) South 01 degrees 37 minutes 40.7 seconds East a distance of 1285.023 feet to a point; and (6) South 50 degrees 45 minutes 28.5 seconds East a distance of 562.737 feet to a point on the aforementioned northerly boundary of Hutchinson River Parkway; thence along said northerly boundary South 34 degrees 06 minutes 23.3 seconds West a distance of 145.00 feet to a point; thence North 74 degrees 23 minutes 37 seconds West a distance of 720.81 feet to a point of curvature; thence along a curve bearing to the left, having a radius of 2,587.6 feet, a distance of 1,561.85 feet to a point; thence South 71 degrees 01 minute 02 seconds West a distance of 352.16 feet to the point or place of BEGINNING.

SCHEDULE B

BORROWER'S AFFIDAVIT

As Amended By

Modification Number One of Building Loan Agreement dated [illegible], 1967

between

RIVERBAY CORPORATION

and

NEW YORK STATE HOUSING FINANCE AGENCY

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

HAROLD OSTROFF, being duly sworn, deposes and says:

I reside at 3915 Orloff Avenue, Bronx, New York; I am the President of Riverbay Corporation, the Borrower mentioned in the foregoing Building Loan Agreement;

The consideration paid or to be paid, by said Riverbay Corporation for the loan described therein is the sum of Five Hundred Twenty-two Thousand ($522,000) Dollars; and that all other expenses incurred or to be incurred in connection with said loan are as follows:

Examination of title and recording fees ... $353,000.00
Attorneys fees 150,000.00
Fees of Architects, Engineers & Surveyors..4,100,000.00
Supervising Governmental Agency fee 2,610,000.00

The net sum available to the said Borrower for the improvement is Two Hundred Thirty-Nine Million Twenty Thousand Seven Hundred Ten

($239,020,710) Dollars, less such amounts as may become due or payable for insurance premiums, interest on building loan mortgage, ground rents, taxes, assessments, water rents and sewer rents accruing during the making of the improvement, and less such amounts necessary to reimburse the said Borrower for payments made prior to the initial advance under this Building Loan Agreement, and to pay for those items of cost of said improvement, as defined in subdivision 5 of Section 2 of the Lien Law.

This statement is made pursuant to Section 22 of the Lien Law of the State of New York.

The reason this statement is made by deponent and not by the Borrower is that the Borrower is a corporation and deponent is an officer thereof.

The facts herein stated are true to the knowledge of deponent.

Harold Ostroff

Sworn to before me this
14th day of April, 1967.

ROY GINSBURG
Notary Public, State of New York
No. 31-1400710
Certified in New York County
Commission Expires March 30, 1969

MODIFICATION NUMBER TWO

OF

BUILDING LOAN AGREEMENT

AGREEMENT, dated as of the 3rd day of February, 1969, between NEW YORK STATE HOUSING FINANCE AGENCY, an agency created pursuant to the provisions of the New York State Housing Finance Agency Act, of 393 Seventh Avenue, Borough of Manhattan, City, County and State of New York (hereinafter referred to as the "Lender"), and RIVERBAY CORPORATION, a corporation organized and existing under and by virtue of the Limited-Profit Housing Companies Law of the State of New York, constituting a mutual company thereunder, having an office at 465 Grand Street, Borough of Manhattan, City and State of New York (hereinafter referred to as the "Borrower");

WHEREAS, to provide for the issuance of Bonds in order to obtain from time to time monies with which to make Mortgage Loans, the Lender has adopted, on April 2, 1965, its Non-Profit Housing Project Bond Resolution (hereinafter referred to as the "Resolution") and proposes to adopt one or more resolutions authorizing the issuance of Notes for the same purpose; and

WHEREAS, the monies borrowed by the Lender through the issuance of Bonds and Notes for the purpose of paying interest on the Bonds and Notes issued by the Lender to obtain funds with

which to make this loan to the Borrower shall constitute a part of, and be included in the computation of this Mortgage Loan; and

WHEREAS, the Lender and the Borrower entered into a Building Loan Agreement dated as of July 15, 1965, and filed in the Office of the County Clerk of Bronx County on July 16, 1965, as amended by Modification Number One of Building Loan Agreement dated as of April 14, 1967 and filed in the Office of the County Clerk of Bronx County on April 18, 1967, which Building Loan Agreement as so amended is hereinafter referred to as the "Building Loan Agreement"; and

WHEREAS, under the Building Loan Agreement the Lender agreed to loan to the Borrower the amount of Two Hundred Forty-six Million Seven Hundred Fifty-five Thousand Seven Hundred Ten ($246,755,710) Dollars; and

WHEREAS, pursuant to an agreement dated December 16, 1968 (hereinafter referred to as the "School Agreement") between The City of New York, the Board of Education of The City of New York (hereinafter referred to as the "Board"), and the Borrower, the Borrower has agreed to construct certain schools and appurtenant facilities as part of the project acquired and being constructed and developed by the Borrower; and

WHEREAS, in addition to the amount of Two Hundred Forty-six Million Seven Hundred Fifty-five Thousand Seven Hundred Ten

($246,755,710) Dollars agreed to be loaned by the Lender to the Borrower pursuant to the Building Loan Agreement, the Lender has agreed to lend to the Borrower for the purposes of the School Agreement, as authorized by Article IX, Section 920, of the Resolution, the amount of Forty-six Million ($46,000,000) Dollars pursuant to the Building Loan Agreement, so that the aggregate amount to be loaned by the Lender to the Borrower under the Building Loan Agreement shall be Two Hundred Ninety-two Million Seven Hundred Fifty-five Thousand Seven Hundred Ten ($292,755,710) Dollars; and

WHEREAS, the Lender and the Borrower have agreed to further modify the Building Loan Agreement to provide for the aforesaid increase in this Mortgage Loan;

NOW, THEREFORE, the parties agree:

1. The first paragraph of Article I of the Building Loan Agreement is hereby deleted and the following paragraph is hereby substituted therefor:

> "I. The Lender agrees to make, and the Borrower agrees to accept, a loan of Two Hundred Ninety-two Million Seven Hundred Fifty-five Thousand Seven Hundred Ten ($292,755,710) Dollars to be advanced as herein provided, and to be evidenced by the Borrower's notes, payable with interest and amortization as therein provided and secured by mortgages (hereinafter referred to as the "Mortgage") on the premises described in Schedule A."

2. The first paragraph of Article II of the Building Loan Agreement is hereby deleted and the following paragraph is substituted therefor:

"II. The Borrower will construct on the premises the following described project:

On or before August 1, 1970, thirty-five fireproof apartment buildings, ten of which shall be 24 stories, ten of which shall be 26 stories and fifteen of which shall be 33 stories, and 236 two-family, 3-story town houses, containing an aggregate of 15,372 apartments, commercial buildings containing approximately 7,050,000 cubic feet, a community center, a power plant building, on-site parking facilities for 10,850 cars; on or before July 1, 1972, an educational park consisting of two primary school units, two intermediate school units, one high school and central facilities unit and gymnasia, together with the facilities related thereto."

3. Article III of the Building Loan Agreement is hereby deleted and the following Article III is hereby substituted therefor:

"III. Said loan shall be advanced at such times and in such amounts as the Lender shall determine, subject to the certification in writing from the Commissioner, that such advance is then payable and due under and in accordance with the terms and conditions of this agreement and either of two certain construction contracts approved by the Commissioner, less such holdback on advances as provided in said construction contracts; except that in the case of advances for the purposes of the School Agreement, in the event that the Board or the Comptroller of the City of New York (hereinafter referred to as the "Comptroller") delivers to the Borrower and the Commissioner a written objection to any specific item included in any such advance as not being proper under the terms of this Building Loan Agreement or the applicable construction contract, setting forth the grounds for such objection, such item shall continue to be included in the first such advance (under this Building Loan Agreement) next ensuing after the delivery of such objection, but, unless such item shall be corrected by the Borrower to the satisfaction of the Board, the Comptroller, the Commissioner and the Lender prior to the time of making of the second such advance (under this Building Loan Agreement) next ensuing after the delivery of such objection, then an appropriate amount covering such item shall be withheld from such second advance

next ensuing and such amount withheld shall not be disbursed to the Borrower until such item is so corrected. At any time after 50% of the construction has been completed for any stage of construction determined in accordance with Article II hereof, if the Borrower and the Commissioner agree, advances may be made for the construction completed after such agreement for such stage of construction without making any holdback at the time of such agreement and the amount of holdback applicable when 50% of the construction for such stage of construction was completed. After the Commissioner has determined that any such stage of construction has been substantially completed, the remaining holdback for such stage of construction may be paid from time to time and in such amounts as the Commissioner shall approve. However, at no time will any advance or payment be made by the Lender to the Borrower which would result in a loan in excess of ninety and 35/100 per cent (90.35%) of the then "Project Cost", as defined and determined in accordance with the provisions of the Limited-Profit Housing Companies Law at the time of each such advance or payment. As part of the consideration to the Lender hereunder, the Lender shall have the right, if the Lender believes it advisable so to do, to make any given advance of mortgage proceeds when the Borrower shall be entitled to same in accordance with the terms of this agreement, notwithstanding that the Borrower shall not have requested such advance or shall have refused to accept same, and all such advances shall be deemed to have been made in pursuance of this agreement and not to be in contravention or in modification thereof."

4. The first sentence of Article XVIII of the Building Loan Agreement is hereby deleted and the following sentence is substituted therefor:

"XVIII. If the Borrower at any time prior to the completion of the Project abandons the same or ceases work thereon or fails to complete the Project strictly in accordance with the plans and specifications, except as to changes approved by the Commissioner and except as provided in the School Agreement, or makes changes in the plans and specifications without first securing written approval of the Commissioner or otherwise fails

to comply with the terms hereof, then the Lender, at its option, may forthwith enter into possession of the premises and perform any and all work and labor necessary to complete the Project substantially in accordance with the plans and specifications and employ watchmen to protect the premises and the Project under construction from injury; all sums so expended by the Lender shall be deemed to have been paid to the Borrower and secured by the Mortgage."

5. The first sentence of Article XIX of the Building Loan Agreement is hereby deleted and the following sentence is substituted therefor:

"XIX. The Borrower shall furnish or cause to be furnished such performance and payment bonds as the Commissioner and the Lender shall require and as are required under the School Agreement."

6. Whenever in the Building Loan Agreement reference is made to the "Note" or "Mortgage" securing the Mortgage Loan executed by Borrower, such terms shall be deemed to apply and refer to the mortgage notes and mortgages, securing the loan made and to be made by the Lender pursuant to the Building Loan Agreement, as hereby amended.

7. Schedule A annexed hereto shall be and the same hereby is substituted for Schedule A heretofore annexed to the Building Loan Agreement.

8. Schedule B annexed hereto shall be and the same hereby is substituted for Schedule B heretofore annexed to the Building Loan Agreement.

9. Except as herein amended, the Building Loan Agreement shall remain in full force and effect and in the event of any inconsistency between the Building Loan Agreement and this

Modification Number Two of Building Loan Agreement, the provisions of this Modification Number Two of Building Loan Agreement shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

NEW YORK STATE HOUSING FINANCE AGENCY

[Corporate Seal]

By _____
Paul Belica, Executive Director

Attest:

_____

RIVERBAY CORPORATION

[Corporate Seal]

By _____
Harold Ostroff, President

Attest:

_____
President Secretary

APPROVED the 3rd day of February, 1969

_____
Commissioner of Housing and Community Renewal of the State of New York

BEST COPY AVAILABLE

ANNEXED TO AFFIDAVIT OF JAY F. GORDON

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 3rd day of February, 1969, before me personally came PAUL BELICA, to me known, who, being by me duly sworn, did depose and say that he resides at No. 359 Cedar Drive, Briarcliff Manor, New York; that he is Executive Director of the New York State Housing Finance Agency, the Agency described in and which executed the foregoing instrument; that he knows the seal of said Agency; that the seal affixed to said instrument is the official seal of said Agency; that it was so affixed by order of the Members of said Agency, and that he signed his name thereto by like order.

Richard H. Greene
Notary Public

RICHARD H. GREENE
Notary Public, State of New York
No. 31-1557428
Qualified in New York County
Commission Expires March 30, 1969

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 3rd day of February, 1969, before me personally came HAROLD OSTROFF, to me known, who, being by me duly sworn, did depose and say that he resides at No. 3915 Orloff Avenue, Bronx 63, New York; that he is the President of RIVERBAY CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; that he signed his name thereto by like order.

Richard H. Greene
Notary Public

RICHARD H. GREENE
Notary Public, State of New York
No. 31-1557428
Qualified in New York County
Commission Expires March 30, 1969

EXHIBIT "12" - MODIFICATION NO. 2 OF BUILDING LOAN AGREEMENT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

SCHEDULE A

PARCEL A:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough and County of the Bronx, City and State of New York, bounded and described as follows:

BEGINNING at the intersection of the easterly side of Hutchinson River Parkway Extension as legally opened July 19, 1941, with the westerly U. S. Pierhead and Bulkhead Line of the Hutchinson (Eastchester Creek) River, as approved by the Secretary of War October 28, 1940, having coordinates North 31,848.67 West 21,256.51;
thence along said U. S. Pierhead and Bulkhead Line the following bearings and distances: South 50 degrees 45 minutes 28.7 seconds East 123.589 feet; South 16 degrees 59 minutes 47.6 seconds East 615.405 feet; South 4 degrees 30 minutes 56.5 seconds East 706.572 feet and South 12 degrees 13 minutes 19.5 seconds West 460.965 feet;
thence South 48 degrees 02 minutes 53 seconds East 331.061 feet to the southerly U. S. Pierhead and Bulkhead Line of Givons Creek as approved by the Secretary of War October 28, 1940;
thence along the westerly U. S. Pierhead and Bulkhead Line of Hutchinson River, South 53 degrees 57 minutes 51.9 seconds East 5.010 feet to the northerly property line of land now or formerly of the New York, New Haven and Hartford Railroad Company;
thence along said northerly property line of said railroad on a curve to the right having a radius of 2,192.50 feet, a distance of 370.27 feet;
thence still along said northerly property line of said railroad South 39 degrees 41 minutes 21.4 seconds East a distance of 20.00 feet;
thence still along said northerly property line of said railroad on a curve to the right, having a radius of 2,507.3 feet a distance of 705.37 feet;
thence still along said northerly property line of said railroad South 66 degrees 25 minutes 47 seconds West a distance of 404.07 feet to the prolongation southerly of the easterly side of Hunter Avenue (Lorillard Avenue) as laid out on Map of Pelham Park by C. J. Byrne, July 4, 1873, filed Westchester County September 20, 1873, as Map No. 599;
thence northerly along said prolongation and along the easterly line of said Hunter Avenue as laid out on said map 559.32 feet to a point in the most southerly line of Lot 51 in Block 5135 on the Tax Map of the City of New York for the Borough of Bronx;
thence westerly along said most southerly line of said tax lot 51 in Block 5135 a distance of 150.00 feet to the westerly line of said tax lot 51;
thence northerly along said last mentioned line 150.00 feet to the southerly line of said tax lot 51;
thence westerly along said last mentioned line 100.00 feet to the easterly side of Boller Avenue (Sea View Avenue) as shown on Map No. 599 above mentioned;
thence northerly along said easterly side of Boller Avenue 306.85 feet to the easterly or southeasterly side of Hutchinson River Parkway Extension;

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SCHEDULE A (Continued)

PARCEL A (Continued)

thence northeasterly along the southeasterly side of said Hutchinson River Parkway Extension as presently laid out the following four courses and distances: (1) North 34 degrees 06 minutes 23.3 seconds East a distance of 1,102.34 feet; (2) North 66 degrees 58 minutes 06.6 seconds East a distance 29.85 feet; (3) North 16 degrees 59 minutes 47 seconds West a distance of 20.81 feet; (4) North 34 degrees 06 minutes 23.3 seconds East a distance of 1,291.32 feet to the point or place of BEGINNING.

PARCEL B:

ALL that certain lot, piece or parcel of land, situate, lying and being in the Borough and County of the Bronx, City and State of New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly boundary of the New England Thruway as laid out on a map filed May 17, 1948, as Map No. 2041, Bronx County, said point being 2,533.59 feet distant northwesterly along said easterly boundary from the point of intersection of the northerly boundary of Hutchinson River Parkway with said easterly boundary; running thence along said easterly boundary North 18 degrees 58 minutes 57.7 seconds West a distance of 99.88 feet to a point; thence still along said easterly boundary North 23 degrees 06 minutes 19.2 seconds West a distance of 20.18 feet to a point; thence North 71 degrees 01 minute 02 seconds East a distance of 219.91 feet to a point;
thence North 3 degrees 11 minutes 40.8 seconds East a distance of 101.36 feet to a point;
thence North 61 degrees 02 minutes 19.2 seconds West a distance of 38.28 feet to a point of curvature;
thence along a curve bearing to the left, having a radius of 130.3 feet a distance of 97.55 feet to a point;
thence South 87 degrees 57 minutes 40.8 seconds West a distance of 175.02 feet to a point on the easterly boundary of the New England Thruway;
thence along said easterly boundary North 23 degrees 06 minutes 19.2 seconds West a distance of 891.66 feet to a point of curvature; running
thence along said easterly boundary and along a curve bearing to the right, having a radius of 1,500 feet, a distance of 413.18 feet to a point of compound curvature;
thence still along said easterly boundary and along a curve bearing to the right having a radius of 3,862 feet, a distance of 445.22 feet to a point of compound curvature;
thence still along said easterly boundary and along a curve bearing to the right, having a radius of 9,862 feet, a distance of 6[illegible].73 feet to a point of compound curvature;

SCHEDULE A (Continued)

PARCEL B (Continued)

thence still along said easterly boundary and along a curve bearing to the right having a radius of 2,862 feet a distance of 382.33 feet;
thence still along said easterly boundary and along a curve bearing to the right having a radius of 2,112 feet a distance of 457.18 feet to a point;
thence still along said easterly boundary along a curve bearing to the right having a radius of 1,900 feet a distance of 391.28 feet to a point of tangency in the bed of former Wright Avenue;
thence still along said easterly boundary North 34 degrees 55 minutes 50.4 seconds East a distance of 261.32 feet to a point;
thence South 37 degrees 04 minutes 09.6 seconds East a distance of 338.59 feet to a point of curvature;
thence along a curve bearing to the left having a radius of 600.0 feet, a distance of 796.25 feet to a point;
thence North 66 degrees 53 minutes 40.8 seconds East a distance of 1406.93 feet to a point;
thence North 14 degrees 31 minutes 29 seconds East a distance of 662.90 feet to a point on the southerly side of Givan Avenue as vested in the City of New York on November 22, 1960 and on April 1, 1958;
thence along said southerly side North 66 degrees 53 minutes 40.8 seconds East a distance of 44.93 feet to the westerly line of Conner Street as now laid out and vested in the City of New York;
thence South 33 degrees 21 minutes 25.0 seconds East along the westerly side of Conner Street as now laid out and vested in the City of New York a distance of 210.62 feet to a point where the same is intersected by the westerly side of an Old Road;
thence in a southerly direction and along the westerly side of said Old Road the following three courses and distances:
(1) South 5 degrees 44 minutes 50 seconds East a distance of 146.80 feet;
(2) South 11 degrees 08 minutes 00 seconds East a distance of 67.58 feet; and
(3) South 4 degrees 09 minutes 30 seconds East a distance of 2.02 feet to a point;
thence in an easterly direction across Old Road North 85 degrees 50 minutes 30 seconds East a distance of 10.13 feet to the westerly line of land acquired by the City of New York in the opening of "Public Place";
thence South 14 degrees 31 minutes 29 seconds West and along the said westerly line of the land so acquired a distance of 270.77 feet to the southerly line of the land so acquired;
thence South 75 degrees 28 minutes 31.2 seconds East and along the southerly line of the land so acquired a distance of 325.00 feet to its intersection with the United States Pierhead and Bulkhead Line of the Hutchinson River as approved by the Secretary of War on October 28, 1940, the coordinates of said point being 36019.585 North and 21426.448 West;

SCHEDULE A (Continued)

PARCEL B (Continued)

thence in a generally southerly direction and along the said Pierhead and Bulkhead Line the following six courses and distances:
(1) South 14 degrees 31 minutes 28.8 seconds West a distance of 400.902 feet;
(2) South 17 degrees 14 minutes 17.8 seconds West a distance of 989.050 feet;
(3) South 14 degrees 30 minutes 23.3 seconds West a distance of 382.151 feet to a point;
(4) South 08 degrees 00 minutes 32.5 seconds West a distance of 611.408 feet to a point;
(5) South 01 degrees 37 minutes 40.7 seconds East a distance of 1285.023 feet to a point; and
(6) South 50 degrees 45 minutes 28.5 seconds East a distance of 562.737 feet to a point on the aforementioned northerly boundary of Hutchinson River Parkway;
thence along said northerly boundary South 34 degrees 06 minutes 23.3 seconds West a distance of 145.00 feet to a point;
thence North 74 degrees 23 minutes 37 seconds West a distance of 720.81 feet to a point of curvature;
thence along a curve bearing to the left, having a radius of 2,587.6 feet, a distance of 1,561.85 feet to a point;
thence South 71 degrees 01 minute 02 seconds West a distance of 352.16 feet to the point or place of BEGINNING.

EXCEPT so much of the above described premises as was conveyed by Riverbay Corporation to National Development Corporation by deed recorded 12/6/67 in Rec. L. 295 pg 214 and described as follows:

BEGINNING at the southwesterly corner of Givan Avenue and Conner Street as shown on plan No. 11791, adopted by Board of Estimate on 12/22/66 (Cal. #117) the coordinates of said corner being North 36,742.042 and West 21,841.855;

thence bearing along the southerly boundary of Givan Avenue bearing South 66 degrees 53 minutes 40.8 seconds West for a distance of 44.93 feet;
thence turning left an angle bearing South 14 degrees 31 minutes 29 seconds West for a distance of 99.4479 feet in the westerly side of Peartree Avenue; this point being the place of beginning for the description of this
thence turning left along the westerly boundary of Peartree Avenue an angle bearing South 23 degrees 06 minutes 19.2 seconds East for a distance of 50.1053 feet;
thence turning right along the westerly boundary of Peartree Avenue an angle bearing South 9 degrees 30 minutes 00 seconds West for a distance of 479.932 feet;

SCHEDULE A (Continued)

PARCEL B (Continued)

thence along a curve bearing to the right having a radius of 12.0 feet for a distance of 18.461 feet the said curve having a center angle of 88 degrees 08 minutes 34 seconds to a point; this point being on the northerly boundary of Co-op City Blvd.;
thence continuing along the northerly boundary of Co-op City Blvd. along a curve bearing to the left having a radius of 370.0 feet for a distance of 63.5310 feet the said curve having a chord of 63.4528 feet;
thence turning right an angle bearing North 14 degrees 31 minutes 29 seconds East for a distance of 543.7111 feet to point of BEGINNING.

And EXCEPT so much of the above described premises (Parcel B) as was conveyed by Riverbay Corporation to National Development Corporation by deed recorded 12/6/67 in Rec. L. 295 pg 217 and described as follows (2 parcels):

PARCEL I: Starting at the northeast corner of Bartow Avenue and Baychester Avenue as shown on Plan No. 11791; adopted by Board of Estimate on 12/22/66 (Cal. #117) coordinates of said corner being North 32,097.960 and West 24,215.466;
thence bearing along the northerly boundary of Bartow Avenue North 71 degrees 01 minute 02.3 seconds East for a distance of 210.91 feet to a point; this point being point of beginning for the description of this Parcel;
thence turning left an angle bearing North 3 degrees 11 minutes 40.8 seconds East for a distance of 101.36 feet;
thence turning left an angle bearing North 61 degrees 02 minutes 19.2 seconds West for a distance of 38.28 feet to a point; this point being a point of tangency;
thence turning left along a curve of a radius of 180.3 feet for a distance of 97.5522 feet to a point; this point being a point of tangency;
thence continuing bearing South 87 degrees 57 minutes 40.8 seconds West for a distance of 10.3657 feet;
thence turning right an angle bearing North 71 degrees 01 minute 02.3 seconds East for a distance of 137.3151 feet;
thence turning right a 90 degree angle bearing South 18 degrees 58 minutes 57.7 seconds East for a distance of 177.0 feet to the northerly side of Bartow Avenue;
thence along same turning right a 90 degree angle bearing South 71 degrees 01 minute 02.3 seconds West 58.695 feet to beginning.

SCHEDULE A (Continued)

PARCEL I (Continued)

PARCEL II: BEGINNING at the northerly end of a curve connecting the northerly side of Bartow Avenue with the westerly side of Asch Loop as shown on Plan #11791, adopted by Board of Estimate on 12/22/66;
thence bearing along the westerly side of Asch Loop North 18 degrees 58 minutes 57.7 seconds West a distance of 165 feet;
thence South 71 degrees 01 minute 02.3 seconds West 15 feet;
thence South 18 degrees 58 minutes 57.7 seconds East 177 feet to northerly side of Bartow Avenue;
thence easterly along the northerly side of Bartow Avenue North 71 degrees 01 minute 02.3 seconds East 3.0 feet to a point of curve;
thence along a curve to the left having a radius of 12.0 feet, 18.85 feet to beginning.

Together with and subject to the easements as defined and limited in deed recorded in Rec. L. 295 pg 217.

PARCEL C:

All that certain lot, piece or parcel of land, situate, lying and being in the Borough and County of the Bronx, City and State of New York, bounded and described as follows:

STARTING at the northeast corner of Bartow Avenue and Baychester Avenue, as shown on Plan No. 11791, adopted by the Board of Estimate, City of New York, on December 22, 1966, (Calendar No. 117) the Co-ordinates of said corner being North 32,097.960 and West 24,215.466;
thence bearing along the easterly boundary of Baychester Avenue Bearing North 23 degrees 06 minutes 19.2 seconds West for a distance of 145.00 feet to a point; this point being the point of beginning for the description of this parcel;
thence continuing along the easterly boundary of Baychester Avenue North 23 degrees 06 minutes 19.2 seconds West for a distance of 80.57 feet to a point;
thence turning right an angle bearing North 87 degrees 57 minutes 40.8 seconds East for a distance of 164.6543 feet to a point;
thence turning right an angle bearing South 71 degrees 01 minute 02.3 seconds West for a distance of 1.2899 feet to a point;
thence turning left an angle bearing South 18 degrees 58 minutes 57.7 seconds East for a distance of 39.1996 feet to a point;
thence turning right an angle bearing South 72 degrees 36 minutes 53.4 seconds West for a distance of 150.5791 feet to the point or place of BEGINNING,

SCHEDULE A (Continued)

PARCEL C (Continued)

which latter parcel was conveyed to Riverbay Corporation by deed recorded 12/6/67 in Rec. L. 295 pg 210.

Except so much of the above described premises (Parcels A and B) as was conveyed by cession deed (Streets) by Riverbay Corporation to The City of New York recorded 12/29/67 in Record Liber 304 pg 324.

Together with the buildings and improvements thereon erected, and together with all the right, title and interest of the Borrower, if any, of, in and to beds of the streets, roads and avenues, and any easements over property, in front of and adjoining the above-described premises;

Together with any and all structures, buildings and improvements and replacements thereof and additions thereto, now or at any time hereafter constructed, erected, installed or placed in or upon the above-described real estate and any and all fixtures, fittings, appliances, apparatus, equipment, machinery, chattels and articles of personal property, including but not limited to steam and hot water boilers, pipes, radiators, bath-tubs, water-closets, refrigerators, gas and electrical fixtures, ranges and replacements thereof, now or at any time hereafter affixed to, attached to, placed upon or used or stored on or off the site or in any way connected with the complete and comfortable use, enjoyment, occupancy or operation of the plant of the said mortgaged premises (excepting only removable trade fixtures and other personal effects owned or possessed by the tenants who may occupy the mortgaged premises).

SCHEDULE B

BORROWER'S AFFIDAVIT

As Amended By

Modification Number Two of Building Loan Agreement dated February 3 , 1969

between

RIVERBAY CORPORATION

and

NEW YORK STATE HOUSING FINANCE AGENCY

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

HAROLD OSTROFF, being duly sworn, deposes and says:

I reside at 3915 Orloff Avenue, Bronx, New York; I am the President of Riverbay Corporation, the Borrower mentioned in the foregoing Building Loan Agreement;

The consideration paid or to be paid, by said Riverbay Corporation for the loan described therein is the sum of Nine Hundred Twenty-one Thousand ($921,000) Dollars; and that all other expenses incurred or to be incurred in connection with said loan are as follows:

Examination of title and recording fees	$448,000.00
Attorneys fees	212,500.00
Fees of Architects, Engineers & Surveyors	4,200,000.00
Supervising Governmental Agency Fee	2,136,000.00

The net sum available to the said Borrower for the improvement is Two Hundred Eighty-four Million Eight Hundred Thirty-eight Thousand

Two Hundred Ten ($284,838,210) Dollars, of which One Hundred Nine Million Four Hundred Seventy Thousand Six Hundred Eighty-four ($109,470,684) Dollars was heretofore advanced, leaving a balance of One Hundred Seventy-five Million Three Hundred Sixty-seven Thousand Five Hundred Twenty-six ($175,367,526) Dollars, less such amounts as may become due or payable for insurance premiums, interest on building loan mortgage, ground rents, taxes, assessments, water rents and sewer rents accruing during the making of the improvement, and less such amounts necessary to reimburse the said Borrower for payments made prior to the initial advance under this Building Loan Agreement, and to pay for those items of cost of said improvement, as defined in subdivision 5 of Section 2 of the Lien Law.

This statement is made pursuant to Section 22 of the Lien Law of the State of New York.

The reason this statement is made by deponent and not by the Borrower is that the Borrower is a corporation and deponent is an officer thereof.

The facts herein stated are true to the knowldge of deponent.

Harold Ostroff

Sworn to before me this
3rd day of February, 1969.

Richard H. Greene

RICHARD H. GREENE
Notary Public, State of New York
No. 31-1557425
Qualified in New York County
Commission Expires March 30, 1969

EXHIBIT "13" - MODIFICATION NO. 3 OF BUILDING LOAN AGREEMENT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

MODIFICATION NUMBER THREE

OF

BUILDING LOAN AGREEMENT

AGREEMENT, dated as of the 9th day of October, 1969, between NEW YORK STATE HOUSING FINANCE AGENCY, an agency created pursuant to the provisions of the New York State Housing Finance Agency Act, of 1250 Broadway, Borough of Manhattan, City, County and State of New York (hereinafter referred to as the "Lender"), and RIVERBAY CORPORATION, a corporation organized and existing under and by virtue of the Limited-Profit Housing Companies Law of the State of New York, constituting a mutual company thereunder, having an office at 465 Grand Street, Borough of Manhattan, City and State of New York (hereinafter referred to as the "Borrower");

WHEREAS, to provide for the issuance of Bonds in order to obtain from time to time monies with which to make Mortgage Loans, the Lender has adopted, on April 2, 1965, its Non-Profit Housing Project Bond Resolution (hereinafter referred to as the "Resolution") and proposes to adopt one or more resolutions authorizing the issuance of Notes for the same purpose; and

WHEREAS, the monies borrowed by the Lender through the issuance of Bonds and Notes for the purpose of paying interest on the Bonds and Notes issued by the Lender to obtain funds with which to make this loan to the Borrower shall constitute a part of, and be included in the computation of this Mortgage Loan; and

EXHIBIT "13" - MODIFICATION NO. 3 OF BUILDING LOAN AGREEMENT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

WHEREAS, the Lender and the Borrower entered into a Building Loan Agreement dated as of July 15, 1965, and filed in the Office of the County Clerk of Bronx County on July 16, 1965, as amended by Modification Number One of Building Loan Agreement dated as of April 14, 1967 and filed in the Office of the County Clerk of Bronx County on April 18, 1967, and as further amended by Modification Number Two of Building Loan Agreement and filed in the Office of the County Clerk of Bronx County on February 4, 1969, which Building Loan Agreement as so amended is hereinafter referred to as the "Building Loan Agreement"; and

WHEREAS, under the Building Loan Agreement the Lender agreed to loan to the Borrower the amount of Two Hundred Ninety-two Million Seven Hundred Fifty-five Thousand Seven Hundred Ten ($292,755,710) Dollars; and

WHEREAS, in addition to the amount of Two Hundred Ninety-two Million Seven Hundred Fifty-five Thousand Seven Hundred Ten ($292,755,710) Dollars agreed to be loaned by the Lender to the Borrower pursuant to the Building Loan Agreement, the Lender has agreed to lend to the Borrower the amount of Sixty-nine Million ($69,000,000) Dollars pursuant to the Building Loan Agreement, so that the aggregate amount to be loaned by the Lender to the Borrower under the Building Loan Agreement shall be Three Hundred Sixty-one Million Seven Hundred Fifty-five Thousand Seven Hundred Ten ($361,755,710) Dollars; and

WHEREAS, the Lender and the Borrower have agreed to further modify the Building Loan Agreement to provide for the aforesaid increase in this Mortgage Loan;

NOW, THEREFORE, the parties agree:

1. The first paragraph of Article I of the Building Loan Agreement is hereby deleted and the following paragraph is hereby substituted therefor:

> "I. The Lender agrees to make, and the Borrower agrees to accept, a loan of Three Hundred Sixty-one Million Seven Hundred Fifty-five Thousand Seven Hundred Ten ($361,755,710) Dollars to be advanced as herein provided, and to be evidenced by the Borrower's notes, payable with interest and amortization as therein provided and secured by mortgages (hereinafter referred to as the "Mortgage") on the premises described in Schedule A."

2. The Fourth sentence of the first paragraph of Article III of the Building Loan Agreement is hereby deleted and the following sentence is hereby substituted therefor:

> "However, at no time will any advance or payment be made by the Lender to the Borrower which would result in a loan in excess of ninety-two and 00/100 per cent (92.00%) of the then "Project Cost", as defined and determined in accordance with the provisions of the Limited-Profit Housing Companies Law at the time of each such advance or payment."

3. Whenever in the Building Loan Agreement reference is made to the "Note" or "Mortgage" securing the Mortgage Loan executed by Borrower, such terms shall be deemed to apply and refer to the mortgage notes and mortgages, securing the loan made and to be made by the Lender pursuant to the Building Loan Agreement, as hereby amended.

4. Schedule A annexed hereto shall be and the same hereby is substituted for Schedule A heretofore annexed to the Building Loan Agreement.

5. Schedule B annexed hereto shall be and the same hereby is substituted for Schedule B heretofore annexed to the Building Loan Agreement.

6. Except as herein amended, the Building Loan Agreement shall remain in full force and effect and in the event of any inconsistency between the Building Loan Agreement and this Modification Number Three of Building Loan Agreement, the provisions of this Modification Number Three of Building Loan Agreement shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

[Corporate Seal]

Attest: _____

NEW YORK STATE HOUSING FINANCE AGENCY

By _____
Paul Belica, Executive Director

[Corporate Seal]

Attest: _____
Assistant Secretary

RIVERDAY CORPORATION

By _____
Harold Ostroff, President

APPROVED the 27th day of October, 1969

_____
Commissioner of Housing and Community Renewal of the State of New York

Apply

BEST COPY AVAILABLE

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 9th day of October , 1969, before me personally came PAUL BELICA, to me known, who, being by me duly sworn, did depose and say that he resides at No. 359 Cedar Drive, Briarcliff Manor, New York; that he is Executive Director of the New York State Housing Finance Agency, the Agency described in and which executed the foregoing instrument; that he knows the seal of said Agency; that the seal affixed to said instrument is the official seal of said Agency; that it was so affixed by order of the Members of said Agency, and that he signed his name thereto by like order.

EZRA N. GOODMAN
Notary Public, State of New York
No. 24-6390960
Qualified in Kings County
Commission Expires March 30, 1970

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 9th day of October , 1969, before me personally came HAROLD OSTROFF, to me known, who, being by me duly sworn, did depose and say that he resides at No. 3915 Orloff Avenue, Bronx 63, New York; that he is the President of RIVERDAY CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; that he signed his name thereto by like order.

EZRA N. GOODMAN
Notary Public, State of New York
No. 24-6390960
Qualified in Kings County
Commission Expires March 30, 1970

SCHEDULE A

PARCEL A:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough and County of the Bronx, City and State of New York, bounded and described as follows:

BEGINNING at the intersection of the easterly side of Hutchinson River Parkway Extension as legally opened July 19, 1941, with the westerly U. S. Pierhead and Bulkhead Line of the Hutchinson (Eastchester Creek) River, as approved by the Secretary of War October 28, 1940, having coordinates North 31,848.67 West 21,256.51;
thence along said U. S. Pierhead and Bulkhead Line the following bearings and distances: South 50 degrees 45 minutes 28.7 seconds East 123.589 feet; South 16 degrees 59 minutes 47.6 seconds East 615.405 feet; South 4 degrees 30 minutes 56.5 seconds East 706.572 feet and South 12 degrees 13 minutes 19.5 seconds West 460.965 feet;
thence South 48 degrees 02 minutes 53 seconds East 331.061 feet to the southerly U. S. Pierhead and Bulkhead Line of Givans Creek as approved by the Secretary of War October 28, 1940;
thence along the westerly U. S. Pierhead and Bulkhead Line of Hutchinson River, South 53 degrees 57 minutes 51.9 seconds East 5.010 feet to the northerly property line of land now or formerly of the New York, New Haven and Hartford Railroad Company;
thence along said northerly property line of said railroad on a curve to the right having a radius of 2,192.50 feet, a distance of 370.27 feet;
thence still along said northerly property line of said railroad South 39 degrees 41 minutes 21.4 seconds East a distance of 20.00 feet;
thence still along said northerly property line of said railroad on a curve to the right, having a radius of 2,507.3 feet a distance of 705.37 feet;
thence still along said northerly property line of said railroad South 66 degrees 25 minutes 47 seconds West a distance of 404.07 feet to the prolongation southerly of the easterly side of Hunter Avenue (Lorillard Avenue) as laid out on Map of Pelham Park by C. J. Byrne, July 4, 1873, filed Westchester County September 20, 1873, as Map No. 599;
thence northerly along said prolongation and along the easterly line of said Hunter Avenue as laid out on said map 559.32 feet to a point in the most southerly line of Lot 51 in Block 5135 on the Tax Map of the City of New York for the Borough of Bronx;
thence westerly along said most southerly line of said tax lot 51 in Block 5135 a distance of 150.00 feet to the westerly line of said tax lot 51;
thence northerly along said last mentioned line 150.00 feet to the southerly line of said tax lot 51;
thence westerly along said last mentioned line 100.00 feet to the easterly side of Boller Avenue (Sea View Avenue) as shown on Map No. 599 above mentioned;
thence northerly along said easterly side of Boller Avenue 306.85 feet to the easterly or southeasterly side of Hutchinson River Parkway Extension;

SCHEDULE A (Continued)

PARCEL A (Continued)

thence northeasterly along the southeasterly side of said Hutchinson River Parkway Extension as presently laid out the following four courses and distances: (1) North 34 degrees 06 minutes 23.3 seconds East a distance of 1,102.34 feet; (2) North 66 degrees 58 minutes 06.6 seconds East a distance 29.85 feet; (3) North 16 degrees 59 minutes 47 seconds West a distance of 20.81 feet; (4) North 34 degrees 06 minutes 23.3 seconds East a distance of 1,291.32 feet to the point or place of BEGINNING.

PARCEL B:

ALL that certain lot, piece or parcel of land, situate, lying and being in the Borough and County of the Bronx, City and State of New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly boundary of the New England Thruway as laid out on a map filed May 17, 1948, as Map No. 2041, Bronx County, said point being 2,533.59 feet distant northwesterly along said easterly boundary from the point of intersection of the northerly boundary of Hutchinson River Parkway with said easterly boundary; running thence along said easterly boundary North 18 degrees 58 minutes 57.7 seconds West a distance of 99.88 feet to a point;
thence still along said easterly boundary North 23 degrees 06 minutes 19.2 seconds West a distance of 20.18 feet to a point;
thence North 71 degrees 01 minute 02 seconds East a distance of 219.91 feet to a point;
thence North 3 degrees 11 minutes 40.8 seconds East a distance of 101.36 feet to a point;
thence North 61 degrees 02 mirutes 19.2 seconds West a distance of 38.28 feet to a point of curvature;
thence along a curve bearing to the left, having a radius of 180.3 feet a distance of 97.55 feet to a point;
thence South 87 degrees 57 minutes 40.8 seconds West a distance of 175.02 feet to a point on the easterly boundary of the New England Thruway;
thence along said easterly boundary North 23 degrees 06 minutes 19.2 seconds West a distance of 891.66 feet to a point of curvature; running
thence along said easterly boundary and along a curve bearing to the right, having a radius of 1,500 feet, a distance of 413.18 feet to a point of compound curvature;
thence still along said easterly boundary and along a curve bearing to the right having a radius of 3,862 feet, a distance of 445.22 feet to a point of compound curvature;
thence still along said easterly boundary and along a curve bearing to the right, having a radius of 9,862 feet, a distance of 652.73 feet to a point of compound curvature;

SCHEDULE A (Continued)

PARCEL B (Continued)

thence still along said easterly boundary and along a curve bearing to the right having a radius of 2,862 feet a distance of 382.33 feet;
thence still along said easterly boundary and along a curve bearing to the right having a radius of 2,112 feet a distance of 457.18 feet to a point;
thence still along said easterly boundary along a curve bearing to the right having a radius of 1,900 feet a distance of 391.28 feet to a point of tangency in the bed of former Wright Avenue;
thence still along said easterly boundary North 34 degrees 55 minutes 50.4 seconds East a distance of 261.32 feet to a point;
thence South 37 degrees 04 minutes 09.6 seconds East a distance of 338.59 feet to a point of curvature;
thence along a curve bearing to the left having a radius of 600.0 feet, a distance of 796.25 feet to a point;
thence North 66 degrees 53 minutes 40.8 seconds East a distance of 1406.93 feet to a point;
thence North 14 degrees 31 minutes 29 seconds East a distance of 662.90 feet to a point on the southerly side of Givan Avenue as vested in the City of New York on November 22, 1960 and on April 1, 1958;
thence along said southerly side North 66 degrees 53 minutes 40.8 seconds East a distance of 44.93 feet to the westerly line of Conner Street as now laid out and vested in the City of New York;
thence South 38 degrees 21 minutes 25.0 seconds East along the westerly side of Conner Street as now laid out and vested in the City of New York a distance of 210.62 feet to a point where the same is intersected by the westerly side of an Old Road;
thence in a southerly direction and along the westerly side of said Old Road the following three courses and distances:
(1) South 5 degrees 44 minutes 50 seconds East a distance of 146.80 feet;
(2) South 11 degrees 08 minutes 00 seconds East a distance of 67.58 feet; and
(3) South 4 degrees 09 minutes 30 seconds East a distance of 2.02 feet to a point;
thence in an easterly direction across Old Road North 85 degrees 50 minutes 30 seconds East a distance of 10.13 feet to the westerly line of land acquired by the City of New York in the opening of "Public Place";
thence South 14 degrees 31 minutes 29 seconds West and along the said westerly line of the land so acquired a distance of 270.77 feet to the southerly line of the land so acquired;
thence South 75 degrees 28 minutes 31.2 seconds East and along the southerly line of the land so acquired a distance of 325.00 feet to its intersection with the United States Pierhead and Bulkhead Line of the Hutchinson River as approved by the Secretary of War on October 28, 1940, the coordinates of said point being 36019.585 North and 21426.443 West;

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SCHEDULE A (Continued)

PARCEL B (Continued)

thence in a generally southerly direction and along the said Pierhead and Bulkhead Line the following six courses and distances:
(1) South 14 degrees 31 minutes 28.8 seconds West a distance of 400.902 feet;
(2) South 17 degrees 14 minutes 17.8 seconds West a distance of 989.050 feet;
(3) South 14 degrees 30 minutes 23.3 seconds West a distance of 382.151 feet to a point;
(4) South 08 degrees 00 minutes 32.5 seconds West a distance of 611.408 feet to a point;
(5) South 01 degrees 37 minutes 40.7 seconds East a distance of 1285.023 feet to a point; and
(6) South 50 degrees 45 minutes 28.5 seconds East a distance of 562.737 feet to a point on the aforementioned northerly boundary of Hutchinson River Parkway;
thence along said northerly boundary South 34 degrees 06 minutes 23.3 seconds West a distance of 145.00 feet to a point;
thence North 74 degrees 23 minutes 37 seconds West a distance of 720.81 feet to a point of curvature;
thence along a curve bearing to the left, having a radius of 2,587.6 feet, a distance of 1,561.85 feet to a point;
thence South 71 degrees 01 minute 02 seconds West a distance of 352.16 feet to the point or place of BEGINNING.

EXCEPT so much of the above described premises as was conveyed by Riverbay Corporation to National Development Corporation by deed recorded 12/6/67 in Rec. L. 295 pg 214 and described as follows:

BEGINNING at the southwesterly corner of Givan Avenue and Conner Street as shown on plan No. 11791, adopted by Board of Estimate on 12/22/66 (Cal. #117) the coordinates of said corner being North 36,742.042 and West 21,841.855;

thence bearing along the southerly boundary of Givan Avenue bearing South 66 degrees 53 minutes 40.8 seconds West for a distance of 44.93 feet;
thence turning left an angle bearing South 14 degrees 31 minutes 29 seconds West for a distance of 99.4479 feet in the westerly side of Peartree Avenue; this point being the place of beginning for the description of this parcel;
thence turning left along the westerly boundary of Peartree Avenue an angle bearing South 23 degrees 06 minutes 19.2 seconds East for a distance of 50.1053 feet;
thence turning right along the westerly boundary of Peartree Avenue an angle bearing South 9 degrees 30 minutes 00 seconds West for a distance of 479.932 feet;

SCHEDULE A (Continued)

PARCEL B (Continued)

thence along a curve bearing to the right having a radius of 12.0 feet for a distance of 18.401 feet the said curve having a center angle of 88 degrees 08 minutes 34 seconds to a point; this point being on the northerly boundary of Co-op City Blvd.;
thence continuing along the northerly boundary of Co-op City Blvd. along a curve bearing to the left having a radius of 370.0 feet for a distance of 63.5310 feet the said curve having a chord of 63.4528 feet;
thence turning right an angle bearing North 14 degrees 31 minutes 29 seconds East for a distance of 543.7111 feet to point of BEGINNING.

And EXCEPT so much of the above described premises (Parcel B) as was conveyed by Riverbay Corporation to National Development Corporation by deed recorded 12/6/67 in Rec. L. 295 pg 217 and described as follows (2 parcels):

PARCEL I: Starting at the northeast corner of Bartow Avenue and Baychester Avenue as shown on Plan No. 11791; adopted by Board of Estimate on 12/22/66 (Cal. #117) coordinates of said corner being North 32,097.960 and West 24,215.466;
thence bearing along the northerly boundary of Bartow Avenue North 71 degrees 01 minute 02.3 seconds East for a distance of 219.91 feet to a point; this point being point of beginning for the description of this Parcel;
thence turning left an angle bearing North 3 degrees 11 minutes 40.8 seconds East for a distance of 101.36 feet;
thence turning left an angle bearing North 61 degrees 02 minutes 19.2 seconds West for a distance of 38.28 feet to a point; this point being a point of tangency;
thence turning left along a curve of a radius of 180.3 feet for a distance of 97.5522 feet to a point; this point being a point of tangency;
thence continuing bearing South 87 degrees 57 minutes 40.8 seconds West for a distance of 10.3657 feet;
thence turning right an angle bearing North 71 degrees 01 minute 02.3 seconds East for a distance of 137.3151 feet;
thence turning right a 90 degree angle bearing South 18 degrees 58 minutes 57.7 seconds East for a distance of 177.0 feet to the northerly side of Bartow Avenue;
thence along same turning right a 90 degree angle bearing South 71 degrees 01 minute 02.3 seconds West 58.695 feet to beginning.

SCHEDULE A (Continued)

PARCEL B (Continued)

PARCEL II: BEGINNING at the northerly end of a curve connecting the northerly side of Bartow Avenue with the westerly side of Asch Loop as shown on Plan #11791, adopted by Board of Estimate on 12/22/66;
thence bearing along the westerly side of Asch Loop North 18 degrees 58 minutes 57.7 seconds West a distance of 165 feet;
thence South 71 degrees 01 minute 02.3 seconds West 15 feet;
thence South 18 degrees 58 minutes 57.7 seconds East 177 feet to northerly side of Bartow Avenue;
thence easterly along the northerly side of Bartow Avenue North 71 degrees 01 minute 02.3 seconds East 3.0 feet to a point of curve;
thence along a curve to the left having a radius of 12.0 feet, 18.85 feet to beginning.

Together with and subject to the easements as defined and limited in deed recorded in Rec. L. 295 pg 217.

PARCEL C:

All that certain lot, piece or parcel of land, situate, lying and being in the Borough and County of the Bronx, City and State of New York, bounded and described as follows:

STARTING at the northeast corner of Bartow Avenue and Baychester Avenue, as shown on Plan No. 11791, adopted by the Board of Estimate, City of New York, on December 22, 1966, (Calendar No. 117) the Co-ordinates of said corner being North 32,097.960 and West 24,215.466;
thence bearing along the easterly boundary of Baychester Avenue Bearing North 23 degrees 06 minutes 19.2 seconds West for a distance of 145.00 feet to a point; this point being the point of beginning for the description of this parcel;
thence continuing along the easterly boundary of Baychester Avenue North 23 degrees 06 minutes 19.2 seconds West for a distance of 80.57 feet to a point;
thence turning right an angle bearing North 87 degrees 57 minutes 40.8 seconds East for a distance of 164.6543 feet to a point;
thence turning right an angle bearing South 71 degrees 01 minute 02.3 seconds West for a distance of 1.2899 feet to a point;
thence turning left an angle bearing South 18 degrees 58 minutes 57.7 seconds East for a distance of 39.1996 feet to a point;
thence turning right an angle bearing South 73 degrees 36 minutes 53.4 seconds West for a distance of 150.5791 feet to the point or place of BEGINNING,

SCHEDULE A (Continued)

PARCEL C (Continued)

which latter parcel was conveyed to Riverbay Corporation by deed recorded 12/6/67 in Rec. L. 295 pg 210.

Except so much of the above described premises (Parcels A and B) as was conveyed by cession deeds(Streets) by Riverbay Corporation to The City of New York recorded 12/29/67 in Record Liber 304 pg 324, and 6/9/69 in Reel 109, pg 948.

Together with the buildings and improvements thereon erected, and together with all the right, title and interest of the Borrower, if any, of, in and to beds of the streets, roads and avenues, and any easements over property, in front of and adjoining the above-described premises;

Together with any and all structures, buildings and improvements and replacements thereof and additions thereto, now or at any time hereafter constructed, erected, installed or placed in or upon the above-described real estate and any and all fixtures, fittings, appliances, apparatus, equipment, machinery, chattels and articles of personal property, including but not limited to steam and hot water boilers, pipes, radiators, bath-tubs, water-closets, refrigerators, gas and electrical fixtures, ranges and replacements thereof, now or at any time hereafter affixed to, attached to, placed upon or used or stored on or off the site or in any way connected with the complete and comfortable use, enjoyment, occupancy or operation of the plant of the said mortgaged premises (excepting only removable trade fixtures and other personal effects owned or possessed by the tenants who may occupy the mortgaged premises).

SCHEDULE B

BORROWER'S AFFIDAVIT

As Amended By

Modification Number Three of Building Loan Agreement Dated October 9 , 1969

between

RIVERBAY CORPORATION

and

NEW YORK STATE HOUSING FINANCE AGENCY

STATE OF NEW YORK)
: ss :
COUNTY OF NEW YORK)

HAROLD OSTROFF, being duly sworn, deposes and says:

I reside at 3915 Orloff Avenue, Bronx, New York; I am the President of Riverbay Corporation, the Borrower mentioned in the foregoing Building Loan Agreement;

The consideration paid or to be paid, by said Riverbay Corporation for the loan described therein is in the sum of One Million One Hundred Twenty-eight Thousand ($1,128,000) Dollars; and that all other expenses incurred or to be incurred in connection with said loan are as follows:

Examination of title and recording fees	$ 548,000
Attorneys fees	242,500
Fees of Architects, Engineers & Surveyors	6,200,000
Supervising Governmental Agency Fee	3,290,000

The net sum available to the said Borrower for the improvement is Three Hundred Fifty Million Three Hundred Forty-seven Thousand Two Hundred Ten ($350,347,210) Dollars, of which One Hundred Sixty-three Million One Hundred Thirty-four Thousand Five Hundred Thirty-four ($163,134,534) Dollars was heretofore advanced, leaving a balance of

One Hundred Eighty-seven Million Two Hundred Twelve Thousand Six Hundred Seventy-six ($187,212,676) Dollars, less such amounts as may become due or payable for insurance premiums, interest on building loan mortgage, ground rents, taxes, assessments, water rents and sewer rents accruing during the making of the improvement, and less such amounts necessary to reimburse the said Borrower for payments made prior to the initial advance under this Building Loan Agreement, and to pay for those items of cost of said improvement, as defined in subdivision 5 of Section 2 of the Lien Law.

This statement is made pursuant to Section 22 of the Lien Law of the State of New York.

The reason this statement is made by deponent and not by the borrower is that the Borrower is a corporation and deponent is an officer thereof.

The facts herein stated are true to the knowledge of deponent.

Harold Ostroff

Sworn to before me this
9th day of October , 1969.

EZRA H. GOODMAN
Notary Public, State of New York
No. 24-6000900
Qualified in Kings County
Commission Expires March 30, 1970

MODIFICATION NUMBER FOUR

OF

BUILDING LOAN AGREEMENT

AGREEMENT, dated as of the 7th day of July, 1971, between NEW YORK STATE HOUSING FINANCE AGENCY, an agency created pursuant to the provisions of the New York State Housing Finance Agency Act, of 1250 Broadway, Borough of Manhattan, City, County and State of New York (hereinafter referred to as the "Lender"), and RIVERBAY CORPORATION, a corporation organized and existing under and by virtue of the Limited-Profit Housing Companies Law of the State of New York, constituting a mutual company thereunder, having an office at 465 Grand Street, Borough of Manhattan, City and State of New York (hereinafter referred to as the "Borrower");

WHEREAS, to provide for the issuance of Bonds in order to obtain from time to time monies with which to make Mortgage Loans, the Lender has adopted, on April 2, 1965, its Non-Profit Housing Project Bond Resolution (hereinafter referred to as the "Resolution") and proposes to adopt one or more resolutions authorizing the issuance of Notes for the same purpose; and

WHEREAS, the monies borrowed by the Lender through the issuance of Bonds and Notes for the purpose of paying interest on the Bonds and Notes issued by the Lender to obtain funds with which to make this loan to the Borrower shall constitute a part of, and be included in the computation of this Mort-

gage Loan; and

WHEREAS, the Lender and the Borrower entered into a Building Loan Agreement dated as of July 15, 1965 and filed in the Office of the County Clerk of Bronx County on July 16, 1965, as amended by Modification Number One of Building Loan Agreement dated as of April 14, 1967 and filed in the Office of the County Clerk of Bronx County on April 18, 1967, as further amended by Modification Number Two of Building Loan Agreement dated as of February 3, 1969 and filed in the Office of the County Clerk of Bronx County on February 4, 1969, and as further amended by Modification Number Three of Building Loan Agreement dated as of October 9, 1969 and filed in the Office of the County Clerk of Bronx County on October 14, 1969, which Building Loan Agreement as so amended is hereinafter referred to as the "Building Loan Agreement"; and

WHEREAS, under the Building Loan Agreement the Lender agreed to loan to the Borrower the amount of Three Hundred Sixty-one Million Seven Hundred Fifty-five Thousand Seven Hundred Ten ($361,755,710) Dollars; and

WHEREAS, in addition to the amount of Three Hundred Sixty-one Million Seven Hundred Fifty-five Thousand Seven Hundred Ten ($361,755,710) Dollars agreed to be loaned by the Lender to the Borrower pursuant to the Building Loan Agreement, the Lender has agreed to lend to the Borrower the amount of Sixty Million ($60,000,000) Dollars pursuant to the

Building Loan Agreement, so that the aggregate amount to be loaned by the Lender to the Borrower under the Building Loan Agreement shall be Four Hundred Twenty-one Million Seven Hundred Fifty-five Thousand Seven Hundred Ten ($421,755,710) Dollars; and

WHEREAS, the Lender and the Borrower have agreed to further modify the Building Loan Agreement to provide for the aforesaid increase in this Mortgage Loan;

NOW, THEREFORE, the parties agree:

1. The first paragraph of Article I of the Building Loan Agreement is hereby deleted and the following paragraph is hereby substituted therefor:

> "I. The Lender agrees to make, and the Borrower agrees to accept, a loan of Four Hundred Twenty-one Million Seven Hundred Fifty-five Thousand Seven Hundred Ten ($421,755,710) Dollars to be advanced as herein provided, and to be evidenced by the Borrower's notes, payable with interest and amortization as therein provided and secured by mortgages (hereinafter referred to as the "Mortgage") on the premises described in Schedule A."

2. The Fourth sentence of the first paragraph of Article III of the Building Loan Agreement is hereby deleted and the following sentence is hereby substituted therefor:

> "However, at no time will any advance or payment be made by the Lender to the Borrower which would result in a loan in excess of ninety-three and 3/100 per cent (93.03%) of the then "Project Cost", as defined and determined in accordance with the provisions of the Limited-Profit Housing Companies Law at the time of each such advance or payment."

3. Whenever in the Building Loan Agreement reference is made to the "Note" or "Mortgage" securing the Mortgage Loan executed by Borrower, such terms shall be deemed to apply and refer to the mortgage notes and mortgages, securing the loan made and to be made by the Lender pursuant to the Building Loan Agreement, as hereby amended.

4. Schedule A annexed hereto shall be and the same hereby is substituted for Schedule A heretofore annexed to the Building Loan Agreement.

5. Schedule B annexed hereto shall be and the same hereby is substituted for Schedule B heretofore annexed to the Building Loan Agreement.

6. Except as herein amended, the Building Loan Agreement shall remain in full force and effect and in the event of any inconsistency between the Building Loan Agreement and this Modification Number Four of Building Loan Agreement, the provisions of this Modification Number Four of Building Loan Agreement shall govern.

IN WITNESS WHEREOF, the parties hereto have executed

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. this Agreement as of the day and year first above written.

NEW YORK STATE HOUSING FINANCE AGENCY

[Corporate Seal]

By _____
Paul Belica, Executive Director

Attest:

_____

RIVERBAY CORPORATION

[Corporate Seal]

By _____
George Schechter, Vice President

Attest:

_____
Assistant Secretary

APPROVED the 7th day of July, 1971

_____
Commissioner of Housing and Community
Renewal of the State of New York

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 7th day of July, 1971, before me personally came PAUL BELICA, to me known, who, being by me duly sworn, did depose and say that he resides at No. 359 Cedar Drive, Briarcliff Manor, New York; that he is Executive Director of the New York State Housing Finance Agency, the Agency described in and which executed the foregoing instrument; that he knows the seal of said Agency; that the seal affixed to said instrument is the official seal of said Agency; that it was so affixed by order of the Members of said Agency; and that he signed his name thereto by like order.

_____

KATHLEEN M. GAUGHRAN
Notary Public, State of New York
No. 24-5281615
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1973

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 7th day of July, 1971, before me personally came GEORGE SCHECHTER, to me known, who, being by me duly sworn, did depose and say that he resides at No. 20B Defoe Place, Bronx, New York; that he is the Vice President of RIVERBAY CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; that he signed his name thereto by like order.

_____

MATTIE BERGER
Notary Public, State of New York
No. 24-5281615
Qualified in Kings County
Commission Expires March 30, 1972

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SCHEDULE A

PARCEL A:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough and County of the Bronx, City and State of New York, bounded and described as follows:

BEGINNING at the intersection of the easterly side of Hutchinson River Parkway Extension as legally opened July 19, 1941, with the westerly U. S. Pierhead and Bulkhead Line of the Hutchinson (Eastchester Creek) River, as approved by the Secretary of War October 28, 1940, having coordinates North 31,848.67 West 21,256.51;
thence along said U. S. Pierhead and Bulkhead Line the following bearings and distances: South 50 degrees 45 minutes 28.7 seconds East 123.589 feet; South 16 degrees 59 minutes 47.6 seconds East 615.405 feet; South 4 degrees 30 minutes 56.5 seconds East 706.572 feet and South 12 degrees 13 minutes 19.5 seconds West 460.965 feet;
thence South 48 degrees 02 minutes 53 seconds East 331.061 feet to the southerly U. S. Pierhead and Bulkhead Line of Givans Creek as approved by the Secretary of War October 28, 1940;
thence along the westerly U. S. Pierhead and Bulkhead Line of Hutchinson River, South 53 degrees 57 minutes 51.9 seconds East 5.010 feet to the northerly property line of land now or formerly of the New York, New Haven and Hartford Railroad Company;
thence along said northerly property line of said railroad on a curve to the right having a radius of 2,192.50 feet, a distance of 370.27 feet;
thence still along said northerly property line of said railroad South 39 degrees 41 minutes 21.4 seconds East a distance of 20.00 feet;
thence still along said northerly property line of said railroad on a curve to the right, having a radius of 2,507.3 feet a distance of 705.37 feet;
thence still along said northerly property line of said railroad South 66 degrees 25 minutes 47 seconds West a distance of 404.07 feet to the prolongation southerly of the easterly side of Hunter Avenue (Lorillard Avenue) as laid out on Map of Pelham Park by C. J. Byrne, July 4, 1873, filed Westchester County September 20, 1873, as Map No. 599;
thence northerly along said prolongation and along the easterly line of said Hunter Avenue as laid out on said map 559.32 feet to a point in the most southerly line of Lot 51 in Block 5135 on the Tax Map of the City of New York for the Borough of Bronx;
thence westerly along said most southerly line of said tax lot 51 in Block 5135 a distance of 150.00 feet to the westerly line of said tax lot 51;
thence northerly along said last mentioned line 150.00 feet to the southerly line of said tax lot 51;
thence westerly along said last mentioned line 100.00 feet to the easterly side of Boller Avenue (Sea View Avenue) as shown on Map No. 599 above mentioned;
thence northerly along said easterly side of Boller Avenue 306.85 feet to the easterly or southeasterly side of Hutchinson River Parkway Extension;

SCHEDULE A (Continued)

PARCEL A (Continued)

thence northeasterly along the southeasterly side of said Hutchinson River Parkway Extension as presently laid out the following four courses and distances: (1) North 34 degrees 06 minutes 23.3 seconds East a distance of 1,102.34 feet; (2) North 66 degrees 58 minutes 06.6 seconds East a distance 29.85 feet; (3) North 16 degrees 59 minutes 47 seconds West a distance of 20.81 feet; (4) North 34 degrees 06 minutes 23.3 seconds East a distance of 1,291.32 feet to the point or place of BEGINNING.

PARCEL B:

ALL that certain lot, piece or parcel of land, situate, lying and being in the Borough and County of the Bronx, City and State of New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly boundary of the New England Thruway as laid out on a map filed May 17, 1948, as Map No. 2041, Bronx County, said point being 2,533.59 feet distant northwesterly along said easterly boundary from the point of intersection of the northerly boundary of Hutchinson River Parkway with said easterly boundary;
running thence along said easterly boundary North 18 degrees 58 minutes 57.7 seconds West a distance of 99.88 feet to a point;
thence still along said easterly boundary North 23 degrees 06 minutes 19.2 seconds West a distance of 20.18 feet to a point;
thence North 71 degrees 01 minute 02 seconds East a distance of 219.91 feet to a point;
thence North 3 degrees 11 minutes 40.8 seconds East a distance of 101.36 feet to a point;
thence North 61 degrees 02 minutes 19.2 seconds West a distance of 38.28 feet to a point of curvature;
thence along a curve bearing to the left, having a radius of 180.3 feet a distance of 97.55 feet to a point;
thence South 87 degrees 57 minutes 40.8 seconds West a distance of 175.02 feet to a point on the easterly boundary of the New England Thruway;
thence along said easterly boundary North 23 degrees 06 minutes 19.2 seconds West a distance of 891.66 feet to a point of curvature; running
thence along said easterly boundary and along a curve bearing to the right, having a radius of 1,500 feet, a distance of 413.18 feet to a point of compound curvature;
thence still along said easterly boundary and along a curve bearing to the right having a radius of 3,862 feet, a distance of 445.27 feet to a point of compound curvature;
thence still along said easterly boundary and along a curve bearing to the right, having a radius of 9,862 feet, a distance of 652.73 feet to a point of compound curvature;

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SCHEDULE A (Continued)

PARCEL B (Continued)

thence still along said easterly boundary and along a curve bearing to the right having a radius of 2,862 feet a distance of 382.33 feet;
thence still along said easterly boundary and along a curve bearing to the right having a radius of 2,112 feet a distance of 457.18 feet to a point;
thence still along said easterly boundary along a curve bearing to the right having a radius of 1,900 feet a distance of 391.28 feet to a point of tangency in the bed of former Wright Avenue;
thence still along said easterly boundary North 34 degrees 55 minutes 50.4 seconds East a distance of 261.32 feet to a point;
thence South 37 degrees 04 minutes 09.6 seconds East a distance of 338.59 feet to a point of curvature;
thence along a curve bearing to the left having a radius of 600.0 feet, a distance of 796.25 feet to a point;
thence North 66 degrees 55 minutes 40.8 seconds East a distance of 1406.93 feet to a point;
thence North 14 degrees 31 minutes 29 seconds East a distance of 662.90 feet to a point on the southerly side of Givan Avenue as vested in the City of New York on November 22, 1960 and on April 1, 1958;
thence along said southerly side North 66 degrees 53 minutes 40.8 seconds East a distance of 44.93 feet to the westerly line of Conner Street as now laid out and vested in the City of New York;
thence South 38 degrees 21 minutes 25.0 seconds East along the westerly side of Conner Street as now laid out and vested in the City of New York a distance of 210.62 feet to a point where the same is intersected by the westerly side of an Old Road;
thence in a southerly direction and along the westerly side of said Old Road the following three courses and distances:
(1) South 5 degrees 44 minutes 50 seconds East a distance of 146.80 feet;
(2) South 11 degrees 08 minutes 00 seconds East a distance of 67.58 feet; and
(3) South 4 degrees 09 minutes 30 seconds East a distance of 2.02 feet to a point;
thence in an easterly direction across Old Road North 85 degrees 50 minutes 30 seconds East a distance of 10.13 feet to the westerly line of land acquired by the City of New York in the opening of "Public Place";
thence South 14 degrees 31 minutes 29 seconds West and along the said westerly line of the land so acquired a distance of 270.77 feet to the southerly line of the land so acquired;
thence South 75 degrees 28 minutes 31.2 seconds East and along the southerly line of the land so acquired a distance of 325.00 feet to its intersection with the United States Pierhead and Bulkhead Line of the Hutchinson River as approved by the Secretary of War on October 28, 1940, the coordinates of said point being 36019.585 North and 21426.448 West;

SCHEDULE A (Continued)

PARCEL B (Continued)

thence in a generally southerly direction and along the said Pierhead and Bulkhead Line the following six courses and distances:
(1) South 14 degrees 31 minutes 28.8 seconds West a distance of 400.902 feet;
(2) South 17 degrees 14 minutes 17.8 seconds West a distance of 989.050 feet;
(3) South 14 degrees 30 minutes 23.3 seconds West a distance of 382.151 feet to a point;
(4) South 08 degrees 00 minutes 32.5 seconds West a distance of 611.408 feet to a point;
(5) South 01 degrees 37 minutes 40.7 seconds East a distance of 1285.023 feet to a point; and
(6) South 50 degrees 45 minutes 28.5 seconds East a distance of 562.737 feet to a point on the aforementioned northerly boundary of Hutchinson River Parkway;
thence along said northerly boundary South 34 degrees 06 minutes 23.3 seconds West a distance of 145.00 feet to a point;
thence North 74 degrees 23 minutes 37 seconds West a distance of 720.81 feet to a point of curvature;
thence along a curve bearing to the left, having a radius of 2,587.6 feet, a distance of 1,561.85 feet to a point;
thence South 71 degrees 01 minute 02 seconds West a distance of 352.16 feet to the point or place of BEGINNING.

EXCEPT so much of the above described premises as was conveyed by Riverbay Corporation to National Development Corporation by deed recorded 12/6/67 in Rec. L. 295 pg 214 and described as follows:

BEGINNING at the southwesterly corner of Givan Avenue and Conner Street as shown on plan No. 11791, adopted by Board of Estimate on 12/22/66 (Cal. #117) the coordinates of said corner being North 36,742.042 and West 21,841.855;

thence bearing along the southerly boundary of Givan Avenue bearing South 66 degrees 53 minutes 40.8 seconds West for a distance of 44.93 feet;
thence turning left an angle bearing South 14 degrees 31 minutes 29 seconds West for a distance of 99.4479 feet in the westerly side of Peartree Avenue; this point being the place of beginning for the description of this parcel;
thence turning left along the westerly boundary of Peartree Avenue an angle bearing South 23 degrees 06 minutes 19.2 seconds East for a distance of 50.1053 feet;
thence turning right along the westerly boundary of Peartree Avenue an angle bearing South 9 degrees 30 minutes 00 seconds West for a distance of 479.932 feet;

SCHEDULE A (Continued)

PARCEL B (Continued)

thence along a curve bearing to the right having a radius of 12.0 feet for a distance of 18.461 feet the said curve having a center angle of 88 degrees 08 minutes 34 seconds to a point; this point being on the northerly boundary of Co-op City Blvd.; thence continuing along the northerly boundary of Co-op City Blvd. along a curve bearing to the left having a radius of 370.0 feet for a distance of 63.5310 feet the said curve having a chord of 63.4528 feet;
thence turning right an angle bearing North 14 degrees 31 minutes 29 seconds East for a distance of 543.7111 feet to point of BEGINNING.

And EXCEPT so much of the above described premises (Parcel B) as was conveyed by Riverbay Corporation to National Development Corporation by deed recorded 12/6/67 in Rec. L. 295 pg 217 and described as follows (2 parcels):

PARCEL I: Starting at the northeast corner of Bartow Avenue and Baychester Avenue as shown on Plan No. 11791; adopted by Board of Estimate on 12/22/66 (Cal. #117) coordinates of said corner being North 32,097.960 and West 24,215.466;
thence bearing along the northerly boundary of Bartow Avenue North 71 degrees 01 minute 02.3 seconds East for a distance of 219.91 feet to a point, this point being point of beginning for the description of this Parcel;
thence turning left an angle bearing North 3 degrees 11 minutes 40.8 seconds East for a distance of 101.36 feet;
thence turning left an angle bearing North 61 degrees 02 minutes 19.2 seconds West for a distance of 38.28 feet to a point; this point being a point of tangency;
thence turning left along a curve of a radius of 180.3 feet for a distance of 97.5522 feet to a point; this point being a point of tangency;
thence continuing bearing South 87 degrees 57 minutes 40.8 seconds West for a distance of 10.3657 feet;
thence turning right an angle bearing North 71 degrees 01 minute 02.3 seconds East for a distance of 137.3131 feet;
thence turning right a 90 degree angle bearing South 18 degrees 58 minutes 57.7 seconds East for a distance of 177.0 feet to the northerly side of Bartow Avenue;
thence along same turning right a 90 degree angle bearing South 71 degrees 01 minute 02.3 seconds West 58.695 feet to beginning.

SCHEDULE A (Continued)

PARCEL B (Continued)

PARCEL II: BEGINNING at the northerly end of a curve connecting the northerly side of Bartow Avenue with the westerly side of Asch Loop as shown on Plan #11791, adopted by Board of Estimate on 12/22/66;
thence bearing along the westerly side of Asch Loop North 18 degrees 58 minutes 57.7 seconds West a distance of 165 feet;
thence South 71 degrees 01 minute 02.3 seconds West 15 feet;
thence South 18 degrees 58 minutes 57.7 seconds East 177 feet to northerly side of Bartow Avenue;
thence easterly along the northerly side of Bartow Avenue North 71 degrees 01 minute 02.3 seconds East 3.0 feet to a point of curve;
thence along a curve to the left having a radius of 12.0 feet, 18.85 feet to beginning.

Together with and subject to the easements as defined and limited in deed recorded in Rec. L. 295 pg 217.

PARCEL C:

All that certain lot, piece or parcel of land, situate, lying and being in the Borough and County of the Bronx, City and State of New York, bounded and described as follows:

STARTING at the northeast corner of Bartow Avenue and Baychester Avenue, as shown on Plan No. 11791, adopted by the Board of Estimate, City of New York, on December 22, 1966, (Calendar No. 117) the Co-ordinates of said corner being North 32,097.960 and West 24,215.466;
thence bearing along the easterly boundary of Baychester Avenue Bearing North 23 degrees 06 minutes 19.2 seconds West for a distance of 145.00 feet to a point; this point being the point of beginning for the description of this parcel;
thence continuing along the easterly boundary of Baychester Avenue North 23 degrees 06 minutes 19.2 seconds West for a distance of 80.57 feet to a point;
thence turning right an angle bearing North 87 degrees 57 minutes 40.8 seconds East for a distance of 164.6543 feet to a point;
thence turning right an angle bearing South 71 degrees 01 minute 02.3 seconds West for a distance of 1.2899 feet to a point;
thence turning left an angle bearing South 18 degrees 58 minutes 57.7 seconds East for a distance of 39.1996 feet to a point;
thence turning right an angle bearing South 73 degrees 36 minutes 53.4 seconds West for a distance of 150.5791 feet to the point or place of BEGINNING,

SCHEDULE A (Continued)

PARCEL C (Continued)

which latter parcel was conveyed to Riverbay Corporation by deed recorded 12/6/67 in Rec. L. 295 pg 210.

Except so much of the above described premises (Parcels A and B) as was conveyed by cession deeds (Streets) by Riverbay Corporation to The City of New York recorded 12/29/67 in Record Liber 304 pg 324, and 6/9/69 in Reel 109, pg 948.

EXCEPT so much of the above described premises (Parcel A) as was conveyed by deed dated March 6, 1970 by Riverbay Corporation to The City of New York and recorded 4/29/70 in Reel 130, pg. 1980 and described as follows:

BEGINNING at a point on the easterly side of the Hutchinson River Parkway East (all streets mentioned herein being as shown on the "City Map" of the City of New York for the Borough of the Bronx), distant 526.874 feet northerly of the intersection of the northerly side of Boller Avenue and the easterly side of Hutchinson River Parkway East, the coordinates of which are North 30,276.340 and West 22,321.315 as used by the Topographical Bureau in the Bronx;
thence NORTH 34 degrees 06 minutes 23.3 seconds East along the easterly side of the Hutchinson River Parkway East, 282.109 feet to a point of curvature;
thence continuing along the said easterly side of Hutchinson River Parkway East along the arc of a circle of twelve foot radius, bending to the east, 1.449 feet;
thence SOUTH 61 degrees 00 minutes 00 seconds East along the southerly side of an easement 9.50 feet wide, parallel to Einstein Loop South, 444.756 feet to a point of curvature;
thence Southeastwardly along the arc of a circle of 2.50 feet radius, 3.93 feet to a point of tangency;
thence SOUTH 29 degrees 00 minutes 00 seconds West along the westerly side of an easement 9.50 feet wide, parallel to Erdman Place, 111.00 feet to a point of curvature;
thence Southwestwardly along the arc of a circle of 2.50 foot radius, 3.93 feet to a point of tangency;
thence NORTH 61 degrees 00 minutes 00 seconds West 26.00 feet to a point of curvature;
thence along the arc of a circle of 21.50 foot radius, bending southwestwardly 33.772 feet to a point of tangency;
thence SOUTH 29 degrees 00 minutes 00 seconds West along the westerly side of an easement 9.50 feet wide, parallel to Erdman Place 98.00 feet to a point;
thence NORTH 61 degrees 00 minutes 00 seconds west 247.34 feet to a point;
thence SOUTH 29 degrees 00 minutes 00 seconds west 46.922 feet to a point;
thence NORTH 61 degrees 00 minutes 00 seconds west 175.238 feet to the point or place of Beginning.

This parcel consists of part of lot 51 in Block 5135 as shown on the "Tax Map" of the City of New York, Borough of the Bronx and comprises an area of 110,080.21 square feet or 2,52709 Acres.

SCHEDULE A (Continued)

PARCEL C (Continued)

EXCEPT so much of the above described premises (Parcel B) as was conveyed by deed dated March 6, 1970 by Riverbay Corporation to The City of New York and recorded 4/29/70 in Reel 130, pg. 1984 and described as follows:

BEGINNING at a point formed by the intersection of the westerly side of Asch Loop West and a right angle line which is parallel to Bartow Avenue and Distant 177.00 feet northerly therefrom;
running thence Westwardly and at right angles to Asch Loop West, for 125.00 feet;
thence Northwardly deflecting 90 degrees to the right for 85.00 feet;
thence Eastwardly, deflecting 90 degrees to the right, for 125.00 feet to a point on the westerly side of Asch Loop West;
thence Southwardly, along the said westerly side of Asch Loop West, for 85.00 feet to the point or place of Beginning.

Together with the buildings and improvements thereon erected, and together with all the right, title and interest of the Borrower, if any, of, in and to beds of the streets, roads and avenues, and any easements over property, in front of and adjoining the above-described premises;

Together with any and all structures, buildings and improvements and replacements thereof and additions thereto, now or at any time hereafter constructed, erected, installed or placed in or upon the above-described real estate and any and all fixtures, fittings, appliances, apparatus, equipment, machinery, chattels and articles of personal property, including but not limited to steam and hot water boilers, pipes, radiators, bath-tubs, water-closets, refrigerators, gas and electrical fixtures, ranges and replacements thereof, now or at any time hereafter affixed to, attached to, placed upon or used or stored on or off the site or in any way connected with the complete and comfortable use, enjoyment, occupancy or operation of the plant of the said mortgaged premises (excepting only removable trade fixtures and other personal effects owned or possessed by the tenants who may occupy the mortgaged premises).

SCHEDULE B

BORROWER'S AFFIDAVIT

As Amended By

Modification Number Four of Building Loan Agreement Dated July 7, 1971

between

RIVERBAY CORPORATION

and

NEW YORK STATE HOUSING FINANCE AGENCY

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

GEORGE SCHECHTER, being duly sworn, deposes and says:

I reside at 20B Defoe Place, Bronx, New York; I am the Vice President of Riverbay Corporation, the Borrower mentioned in the foregoing Building Loan Agreement;

The consideration paid or to be paid, by said Riverbay Corporation for the loan described therein is in the sum of One Million Three Hundred Eight Thousand ($1,308,000) Dollars; and that all other expenses incurred or to be incurred in connection with said loan are as follows:

Examination of title and recording fees.....	$ 665,000
Attorneys fees.....	270,000
Fees of Architects, Engineers & Surveyors.....	6,250,000
Supervising Governmental Agency Fee.....	4,038,797

The net sum available to the said Borrower for the improvement is Four Hundred Nine Million Two Hundred Twenty-three Thousand Nine Hundred Thirteen ($409,223,913) Dollars, of which Three Hundred Twenty-eight Million Two Hundred Three Thousand One Hundred Eighty-nine and 50/100 ($328,203,189.50) Dollars was heretofore advanced, leaving a balance of

Eighty-one Million Twenty Thousand Seven Hundred Twenty-three and 50/100 ($81,020,723.50) Dollars, less such amount as may become due or payable for insurance premiums, interest on building loan mortgage, ground rents, taxes, assessments, water rents and sewer rents accruing during the making of the improvement, and less such amounts necessary to reimburse the said Borrower for payments made prior to the initial advance under this Building Loan Agreement, and to pay for those items of cost of said improvement, as defined in subdivision 5 of Section 2 of the Lien Law.

This statement is made pursuant to Section 22 of the Lien Law of the State of New York.

The reason this statement is made by deponent and not by the borrower is that the Borrower is a corporation and deponent is an officer thereof.

The facts herein stated are true to the knowledge of deponent.

George Schechter

Sworn to before me this
7th day of July, 1971.

Mattie Berger

MATTIE BERGER
Notary Public, State of New York
No. 24-5291615
Qualified in Kings County
Commission Expires March 30, 1972

EXHIBIT "15" - SALES AGENCY AGREEMENT, DATED JUNE 18, 1965 -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

SALES AGENCY AGREEMENT

AGREEMENT entered into as of the 18 day of June, 1965, by and between RIVERBAY CORPORATION, organized under and pursuant to the provisions of the Limited-Profit Housing Companies Law of the State of New York, (hereinafter referred to as "Owner"), having its principal place of business at 465 Grand Street, New York, New York; and COMMUNITY SERVICES, INC., a New York corporation (hereinafter referred to as "Agent") having its principal place of business at 465 Grand Street, New York, New York.

WHEREAS, Owner, under the supervision of the Commissioner of Housing and Community Renewal of the State of New York, hereinafter referred to as the "Commissioner", is undertaking the development and operation of a cooperative housing project to be constructed pursuant to the Limited-Profit Housing Companies Law of the State of New York, and located on the site bounded generally by the New England Thruway, the Hutchinson River Parkway and the Hutchinson River, known as Co-op City, in the Borough of The Bronx, City of New York and comprising 39 buildings varying in height between 24 and 34 stories, containing approximately 15,500 cooperative apartments and a garage area with approximately 10,850 parking spaces; and

WHEREAS, the parties hereto desire to enter into a contract with regard to the sale of stock and/or other equity obligations of the owner to tenant-cooperators who will reside in the project;

EXHIBIT "15" - SALES AGENCY AGREEMENT, DATED JUNE 18, 1965 -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

NOW, THEREFORE, each of the parties hereto covenants and agrees as follows:

1. The Owner agrees to employ the Agent as the exclusive sales agent of the stock and/or other equity obligations of the Owner, allocated to the dwelling units of the aforesaid project, and as the exclusive renting agent of its professional apartments and commercial space subject to the rules and regulations and procedures of the Commissioner, and the Agent agrees to undertake such employment.

2. The Agent shall, in accordance with the policies and pursuant to the direction of Owner, subject to the rules, regulations and procedures established by the Commissioner:

a. Supply all personnel necessary for the sale of such stock and/or other equity obligations to tenant-cooperators, and the leasing of the professional apartments and commercial spaces.

b. Manage, operate and direct a sales office which, if required in the Owner's judgment, will be established on the site or in the neighborhood of the project. The expenses for cost and maintenance of any and all sales offices shall be paid for by the Agent.

c. Provide and use the facilities of its aforesaid office for sales and leasing to the extent required, in the Owner's judgment.

d. Advertise and publicize the project, promote the sale of stock and/or other equity obligations and maintain good relations between Owner and the general public.

e. Handle all matters pertaining to the sale of stock and/or other equity obligations of said project, and the leasing of

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other professional apartments and commercial space including the securing of necessary credit statements and other information from prospective purchasers and lessees, the obtaining of approval of the Commissioner of each applicant, the execution of subscription and occupancy agreements and all other steps required to obtain eligible purchasers and the approval by the Commissioner of the leases and lessees of the professional apartments and commercial space.

f. Even after the full subscription and leasing of the project, Agent will continue to be available and answer inquiries and keep the public informed of building progress until full occupancy of the project. The Owner agrees to inform the Agent of building construction progress and other matters of cooperative interest. Meetings of the applicants and/or subscribers will be at the Agent's expense.

g. It shall be the responsibility of the Agent to ascertain that the schedules showing apartment location, floor and number, and superintendents' apartments conform to the approved plans and specifications of the development.

3. The Agent agrees to pay for all sales personnel, advertising, publicity and public relations, the preparation of brochures, application forms, subscription agreements and such other forms or documents as may be necessary or desirable in connection with Agent's effort, except that the Owner will pay for transfer stamps and the cost of printing stock certificates.

4. The Owner will pay the Agent, and the Agent will accept as full payment for all services rendered and expenses incurred,

the sum of $30.00 for each sale of stock to an approved applicant who has signed the Subscription and Occupancy Agreement and paid the subscription price and other equity requirements. However, the total amount to be paid to the Agent shall in no event exceed the sum of Four Hundred Fifty Thousand ($450,000) Dollars. In the event that a Building Loan Agreement is not entered into between the Owner and the New York State Housing Finance Agency or the State of New York, the Owner shall not be obligated for the payment to the Agent of any fee or expenses, notwithstanding any provisions of this Agreement. No fees and/or expenses will be paid for the leasing of the professional apartments and commercial space. Furthermore, no fees shall be payable until the Building Loan closing.

5. The fee for each such sale shall be due from the Owner to the Agent upon the approval of the application therefor by the Owner and the Commissioner, the execution of the subscription and occupancy agreements by the Tenant-Cooperator and the payment by the Tenant-Cooperator of his full equity investment.

6. All sums collected by Agent from prospective Purchasers shall be deposited in a special account in a bank or banks designated by the Owner and approved by the Commissioner. Agent, its officers, agents, servants and employees shall be covered by a fidelity bond paid for by the Agent, in an amount and form to be approved by Owner and Commissioner; which shall among other provisions name the Owner as obligee.

7. a. The Owner agrees to provide Agent with a copy of plans, specifications, Certificate of Incorporation, By-laws and

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proposed construction contract to exhibit to prospective tenants.

b. All legal work necessary in connection with the preparation of all documents shall be done by Owner's attorneys at Owner's expense.

8. a. This Agreement shall not become binding on the parties hereto until approved by Commissioner.

b. This Agreement may not be assigned by Agent without the prior written approval of Owner and Commissioner.

9. Commissioner shall have the right to:

a. Prescribe such books and records as he deems necessary; examine, during working hours, the books of accounts and all records of the Agent relating to this Agreement and to make copies excerpts or photostats thereof;

b. Terminate this Agreement without cause upon thirty (30) days written notice to Owner and to Agent. Agent shall have no claims for loss of profits or commissions hereunder, by reason of such termination, but if Agent shall have faithfully performed all of its duties it shall receive payment as provided in paragraph 4 herein for each sale to an approved applicant who has signed Subscription and Occupancy Agreements and paid the subscription price.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized officers and their respective corporate seals hereunto affixed

and duly attested, the day and year first above written.

RIVERLAW CORPORATION

By _____
President

Attest:

_____
Assistant Secretary
[Seal]

COMMUNITY SERVICES, INC.

By _____
Vice President

Attest:

_____
Secretary
[Seal]

Approved:
COMMISSIONER OF HOUSING AND
COMMUNITY RENEWAL OF THE
STATE OF NEW YORK
This 15 day of July, 1965

By _____

EXHIBIT "16" - MODIFICATION (NO. I) OF SALES AGENCY AGREEMENT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

MODIFICATION OF SALES AGENCY AGREEMENT

AGREEMENT made this 14th day of April, 1967 by and between RIVERBAY CORPORATION organized under and pursuant to the provisions of the Limited-Profit Housing Companies Law of the State of New York (hereinafter referred to as the "Owner"), having its principal place of business at 465 Grand Street, New York, New York, and COMMUNITY SERVICES, INC., a New York corporation (hereinafter referred to as "Agent") having its principal place of business at 465 Grand Street, New York, New York.

WHEREAS, the Owner and the Agent entered into a Sales Agency Agreement dated as of June 18, 1965 (hereinafter called "Sales Agency Agreement") relating to the employment of the Agent as sales agent in connection with the project being constructed by Owner in the Borough of The Bronx, City and State of New York, known as Co-op City; and

WHEREAS, by reason of additional work required of the Agent in connection with the project and increased costs, the parties hereto have agreed to increase the Agent's fee as hereinafter provided.

NOW, THEREFORE, each of the parties hereto covenant and agree as follows:

1. The first "WHEREAS" clause of the Sales Agency Agreement is hereby amended to provide that said Co-op City

shall comprise 35 apartment buildings varying in height between 24 and 33 stories and 236 3-story town houses, containing approximately 15,372 cooperative apartments in all, and a garage area with approximately 10,850 parking spaces.

2. The first two sentences of Article 4 of the Sales Agency Agreement are hereby deleted, and the following sentences are hereby substituted therefor:

> "4. The Owner will pay the Agent, and the Agent will accept as full payment for all services rendered and expenses incurred, the sum of $33.33 for each sale of stock to an approved applicant who has signed the Subscription and Occupancy Agreement and paid the subscription price and other equity requirements. However, the total amount to be paid to the Agent shall in no event exceed the sum of Five Hundred Thousand ($500,000) Dollars."

3. Except as herein modified, the Sales Agency Agreement shall remain in full force and effect and in the event of any inconsistency between the Sales Agency Agreement and this Modification of Sales Agency Agreement, the provisions of this Modification of Sales Agency Agreement shall govern.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized officers and their respective corporate seals hereunto

affixed and duly attested, the day and year first above written.

RIVERBAY CORPORATION

By _____
President

ATTEST:

_____
Assistant Secretary

COMMUNITY SERVICES, INC

By _____
Vice-President

ATTEST:

_____
Secretary

APPROVED April 14, 1967

JAMES Wm. CAYMOR

Commissioner of Housing and Community Renewal of the State of New York.

By _____
Deputy Commissioner of Housing and Community Renewal of the State of New York

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

On the 14th day of April, 1967, before me personally came HAROLD OSTROFF, to me known, who being by me duly sworn, did depose and say that he resides at No. 3915 Orloff Avenue, Bronx 63, New York; that he is the President of RIVERBAY CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

_____
Notary Public

ROY CAMBURG
Notary Public, State of New York
No. 31-1967540
Qualified in New York County
Commission Expires March 30, 1969

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

On the 14th day of April, 1967, before me personally came PAUL KRAMER, to me known, who being by me duly sworn, did depose and say that he resides at No. 246 East 238th Street, Bronx, New York; that he is the Vice-President of COMMUNITY SERVICES, INC., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

_____
Notary Public

[illegible]
Notary Public, State of New York
No. 31-[illegible]
Qualified in New York County
Commission Expires March 30, 1969

MODIFICATION NUMBER II

OF

SALES AGENCY AGREEMENT

AGREEMENT made this 4th day of October, 1969 by and between RIVERBAY CORPORATION organized under and pursuant to the provisions of the Limited-Profit Housing Companies Law of the State of New York (hereinafter referred to as the "Owner"), having its principal place of business at 465 Grand Street, New York, New York, and COMMUNITY SERVICES, INC., a New York corporation (hereinafter referred to as "Agent") having its principal place of business at 465 Grand Street, New York, New York.

WHEREAS, the Owner and the Agent entered into a Sales Agency Agreement dated as of June 18, 1965, as amended by Modification of Sales Agency Agreement dated April 14, 1967 between the Owner and the Agency (which Sales Agency Agreement, as so amended, is hereinafter called the "Sales Agency Agreement" relating to the employment of the Agent as sales agent in connection with the project being constructed by Owner in the Borough of The Bronx, City and State of New York, known as Co-op City; and

WHEREAS, by reason of additional work required of the Agent in connection with the project and increased costs, the parties hereto have agreed to increase the Agent's fee as hereinafter provided.

NOW, THEREFORE, each of the parties hereto covenant and agree as follows:

1. The first two sentences of Article 4 of the Sales

Agency Agreement are hereby deleted, and the following sentences are hereby substituted therefor, effective as of June 18, 1965:

> "4. The Owner will pay the Agent, and the Agent will accept as full payment for all services rendered and expenses incurred, the sum of $40.00 for each sale of stock to an approved applicant who has signed the Subscription and Occupancy Agreement and paid the subscription price and other equity requirements. However, the total amount to be paid to the Agent shall in no event exceed the sum of Six Hundred Thousand ($600,000) Dollars."

2. Except as herein modified, the Sales Agency Agreement shall remain in full force and effect and in the event of any inconsistency between the Sales Agency Agreement and this Modification Number II of Sales Agency Agreement, the provisions of this Modification Number II of Sales Agency Agreement shall govern:

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized officers and their respective corporate seals hereunto affixed and duly attested, the day and year first above written.

RIVERBAY CORPORATION

By _____
President

COMMUNITY SERVICES, INC.

By _____

APPROVED THIS 4th DAY OF OCTOBER, 1969

_____
Commissioner of Housing and Community Renewal of the State of New York.

EXHIBIT "17" - MODIFICATION NO. II OF SALES AGENCY AGREEMENT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On the 9th day of October, 1969, before me personally came HAROLD OSTROFF, to me known, who being by me duly sworn, did depose and say that he resides at No. 3915 Orloff Avenue, Bronx 63, New York; that he is the President of RIVERBAY CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Notary Public

LARA N. HOOBYAR
Notary Public, State of New York
No. 24-0900060
Qualified in Kings County
Commission Expires March 30, 1970

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On the 9th day of October, 1969, before me personally came JULIUS GOLDBERG, to me known, who being by me duly sworn, did depose and say that he resides at No. 102 Manchester Street, Westbury, New York; that he is the Vice-President of COMMUNITY SERVICES, INC., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Notary Public

Notary Public, State of New York
No. 24-0900060
Qualified in Kings County
Commission Expires March 30, 1970

EXHIBIT "18" - ADMINISTRATIVE SERVICE AGREEMENT, DATED JUNE 18, 1965 - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

ADMINISTRATIVE SERVICE AGREEMENT

AGREEMENT entered into as of the 18 day of June, 1965, by and between RIVERBAY CORPORATION, organized under and pursuant to the provisions of the Limited-Profit Housing Companies Law of the State of New York (hereinafter referred to as "Owner"), having its principal place of business at 465 Grand Street, New York, New York, and COMMUNITY SERVICES, INC., a New York corporation (hereinafter referred to as "Agent"), having its principal place of business at 465 Grand Street, New York, New York.

WHEREAS, Owner, under the supervision of the Commissioner of Housing and Community Renewal of the State of New York (hereinafter referred to as the "Commissioner"), is undertaking the development and operation of a cooperative housing project to be constructed pursuant to the Limited-Profit Housing Companies Law of the State of New York, known as Co-op City and located in the Borough of The Bronx, City of New York; and

WHEREAS, the Agent has heretofore been supplying to Owner certain administrative services; and

WHEREAS, the parties hereto desire to enter into a contract relating to administrative services to be supplied by the Agent to the Owner during the time that the aforesaid project is being constructed and relating further to the compen-

sation to be paid by the Owner to the Agent for all such services;

NOW, THEREFORE, each of the parties hereto covenants and agrees as follows:

1. Owner agrees to employ Agent to perform or supply the administrative services hereinafter set forth during the time that the aforesaid project is under development and construction and until such project is completed and a Certificate of Completion is issued by the Commissioner, and Agent agrees to undertake such employment.

2. Agent shall, during the period described in paragraph 1 hereof and in accordance with the policies and pursuant to the direction of Owner, supply Owner with all necessary and appropriate bookkeeping services, accounting, auditing and certified public accountant's service, secretarial and other office services and help, office space, furniture, fixtures and office machines, and maintenance contracts in reference thereto, mimeographing and reproduction services, postage, organization expenses, if any, bank charges and service fees, if any, expenses for renting the commercial space in the project, office insurance, including, but not limited to, fidelity bonds, when required, and safe burglary, telephone services, heat, electricity and other office utility services, and all other administrative services covered under Item 4(c) of Schedule A annexed to the Construction Contract dated June , 1965 between the parties hereto, as determined by the Commissioner.

3. Owner will pay Agent, and Agent will accept as full payment for all of the aforesaid services heretofore and hereafter performed or supplied by Agent for Owner and for all expenses incurred by Agent in connection therewith, the sum of TWO HUNDRED THOUSAND ($200,000) DOLLARS to be paid as follows:

(a) Agent shall be paid in monthly installments of TWO THOUSAND TWO HUNDRED ($2,200) DOLLARS each commencing upon the closing of the Building Loan by the New York State Housing Finance Agency to Owner, up to a maximum of ONE HUNDRED NINETY THOUSAND ($190,000) DOLLARS.

(b) The unpaid balance shall be paid to Agent upon the issuance of a Certificate of Completion by the Commissioner.

4. Owner may at any time after the execution of this Agreement, for any reason whatsoever, upon five (5) days' notice in writing to Agent, terminate this Agreement. In the event that this Agreement is so terminated, Agent shall be only entitled to such part of its compensation hereunder as shall fairly compensate Agent for the aforesaid administrative services rendered up to the date of termination. The decision of the Commissioner with respect to the amount payable to Agent in the event of termination, shall be binding on the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized officers and their respective corporate seals to be hereunto

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affixed and duly attested, the day and year first above written.

RIVERBAY CORPORATION

By _____
Abraham E. Kazan, President

Attest:

_____
Assistant Secretary

COMMUNITY SERVICES, INC.

By _____
Harold Ostroff, Vice President

Attest:

_____
Secretary

Approved June 15, 1965

_____
New York State Commissioner of
Housing and Community Renewal

MODIFICATION OF ADMINISTRATIVE SERVICE AGREEMENT

AGREEMENT made this 14th day of April, 1967 by and between RIVERBAY CORPORATION organized under and pursuant to the provisions of the Limited-Profit Housing Companies Law of the State of New York (hereinafter referred to as the "Owner"), having its principal place of business at 465 Grand Street, New York, New York, and COMMUNITY SERVICES, INC., a New York corporation (hereinafter referred to as "Agent") having its principal place of business at 465 Grand Street, New York, New York.

WHEREAS, the Owner and the Agent entered into an Administrative Service Agreement dated June 18, 1965 (the "Administrative Service Agreement), relating to the employment by the Owner of the Agent to perform or supply administrative services in connection with the project being constructed by the Owner in the Borough of The Bronx, City and State of New York, known as Co-op City; and

WHEREAS, by reason of additional work required of the Agent in connection with the project and increased costs, the parties hereto have agreed to increase the Agent's fee as hereinafter provided.

NOW, THEREFORE, each of the parties hereto covenants and agree as follows:

1. The phrase "Item 4(c) of Schedule A annexed to the Construction Contract dated June 18, 1965 between the

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parties hereto," contained in Article 2 of the Administrative Service Agreement, is hereby amended to read: "Item 6(f) of Schedule A annexed to the Construction Contract dated June 12th between the parties hereto, as amended by Modification Number I of Construction Contract dated April 14, 1967 between the parties hereto."

2. Article 3 of the Administrative Service Agreement is hereby deleted and the following Article 3 is hereby substituted therefor:

> "3. Owner will pay Agent, and Agent will accept as full payment for all of the aforesaid services heretofore and hereafter performed or supplied by Agent for Owner and for all expenses incurred by Agent in connection therewith, the sum of Two Hundred Fifty Thousand ($250,000) Dollars to be paid as follows:
>
> (a) Agent shall be paid in monthly installments of Two Thousand Seven Hundred Fifty ($2,750) each commencing upon the closing of the Building Loan by the New York State Housing Finance Agency to Owner, up to a maximum of Two Hundred Thirty-Seven Thousand Five Hundred ($237,500) Dollars.
>
> (b) The unpaid balance shall be paid to Agent upon the issuance of a Certificate of Completion by the Commissioner."

3. Except as herein modified, the Administrative Service Agreement shall remain in full force and effect and in the event of any inconsistency between the Administrative Service Agreement and this Modification of Administrative Service Agreement, the provisions of this Modification of Administrative Service Agreement shall govern.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

On the 14th day of April, 1967, before me personally came HAROLD OSTROFF, to me known, who being by me duly sworn, did depose and say that he resides at No. 3915 Orloff Avenue, Bronx 63, New York; that he is the President of RIVERBAY CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Notary Public

Notary Public, State of New York
Qualified in [illegible] County
Commission Expires March 30, 1969

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

On the 14th day of April, 1967, before me personally came PAUL KRAMER, to me known, who being by me duly sworn, did depose and say that he resides at No. 246 East 238th Street, Bronx, New York; that he is the Vice-President of COMMUNITY SERVICES, INC., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Notary Public

[illegible]

EXHIBIT "19" - MODIFICATION (NO. I) OF ADMINISTRATIVE SERVICE AGREEMENT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

officers and their respective corporate seals hereunto affixed and duly attested, the day and year first above written.

RIVERBAY CORPORATION

By _____
President

ATTEST:

_____
Assistant Secretary

COMMUNITY SERVICES, INC.

By _____
Vice President

ATTEST:

_____
Secretary

APPROVED: April 14, 1967

JAMES Wm. GAYNOR
Commissioner of Housing and Community Renewal of the State of New York

By _____
Deputy Commissioner of Housing and Community Renewal of the State of New York

EXHIBIT "20" - MODIFICATION NO. II OF ADMINISTRATIVE SERVICE AGREEMENT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

MODIFICATION NUMBER II

OF

ADMINISTRATIVE SERVICE AGREEMENT

AGREEMENT made this 9th day of October, 1969 by and between RIVERBAY CORPORATION organized under and pursuant to the provisions of the Limited-Profit Housing Companies Law of the State of New York (hereinafter referred to as the "Owner"), having its principal place of business at 465 Grand Street, New York, New York, and COMMUNITY SERVICES, INC., a New York corporation (hereinafter referred to as "Agent") having its principal place of business at 465 Grand Street, New York, New York.

WHEREAS, the Owner and the Agent entered into an Administrative Service Agreement dated June 18, 1965, as amended by Modification of Administrative Service Agreement dated April 14, 1967 between the Owner and the Agent (which Administrative Service Agreement, as so amended, is hereinafter called the "Administrative Service Agreement"), relating to the employment by the Owner of the Agent to perform or supply administrative services in connection with the project being constructed by the Owner in the Borough of The Bronx, City and State of New York, known as Co-op City; and

WHEREAS, by reason of additional work required of the Agent in connection with the project and increased costs, the parties hereto have agreed to increase the Agent's fee as hereinafter provided.

NOW, THEREFORE, each of the parties hereto covenant and agree as follows:

1. The phrase "Item 6(f) of Schedule A annexed to the Construction Contract dated June 18, 1965 between the parties hereto, as amended by Modification Number I of Construction Contract dated April 14, 1967 between the parties hereto," contained in Article 2 of the Administrative Service Agreement, is hereby amended to read "Item 6(f) of Schedule A annexed to the Construction Contract dated June 18, 1965 between the parties hereto, as amended by Modification Number I of Construction Contract dated April 14, 1967, Modification Number II of Construction Contract dated January 22, 1968, Modification Number III of Construction Contract dated March 29, 1968 and Modification Number IV of Construction Contract dated October 9, 1969, between the parties hereto."

2. Article 3 of the Administrative Service Agreement is hereby deleted and the following Article 3 is hereby substituted therefor, effective of June 18, 1965:

> "3. Owner will pay Agent, and Agent will accept as full payment for all of the aforesaid services heretofore and hereafter performed or supplied by Agent for Owner and for all expenses incurred by Agent in connection therewith, the sum of Three Hundred Thousand ($300,000) Dollars to be paid as follows:
>
> (a) Agent shall be paid in monthly installments of Three Thousand Three Hundred ($3,300) Dollars each commencing upon the closing of the Building Loan by the New York State Housing Finance Agency to Owner, up to a maximum of Two Hundred Eighty-five Thousand ($285,000) Dollars.
>
> (b) The unpaid balance shall be paid to Agent upon the issuance of a Certificate of Completion by the Commissioner."

3. Except as herein modified, the Administrative Service Agreement shall remain in full force and effect and in the event of any inconsistency between the Administrative Service Agreement and this Modification Number II of Administrative Service Agreement, the provisions of this Modification Numer II of Administrative Service Agreement shall govern.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized officers and their respective corporate seals hereunto affixed and duly attested, the day and year first above written.

RIVERBAY CORPORATION

By _____
President

COMMUNITY SERVICES, INC.

By _____
Vice President

APPROVED: December ~~October~~ 4, 1969

_____
Commissioner of Housing and Community Renewal of the State of New York

EXHIBIT "20" - MODIFICATION NO. II OF ADMINISTRATIVE SERVICE AGREEMENT - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On the 9th day of October, 1969, before me personally came HAROLD OSTROFF, to me known, who being by me duly sworn, did depose and say that he resides at No. 3915 Orloff Avenue, Bronx 63, New York; that he is the President of RIVERBAY CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Notary Public

EZRA H. GOODMAN
Notary Public, State of New York
No. 24-6990960
Qualified in Kings County
Commission Expires March 30, 1970

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On the 9th day of October, 1969, before me personally came JULIUS GOLDBERG, to me known, who being by me duly sworn, did depose and say that he resides at No. 102 Manchester Street, Westbury, New York; that he is the Vice President of COMMUNITY SERVICES, INC., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Notary Public

EZRA H. GOODMAN
Notary Public, State of New York
No. 24-6990960
Qualified in Kings County
Commission Expires March 30, 1970

EXHIBIT "21" - LETTER DATED JUNE 16, 1965, FROM COMMUNITY TO MR. PAUL BELICA, CONTAINING HANDWRITTEN ENDORSEMENT ON THE FACE THEREOF, WITH DECEMBER 31, 1964 UNAUDITED BALANCE SHEET ATTACHED - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

COMMUNITY SERVICES, INC.

ABRAHAM E. KAZAN . . President
HAROLD OSTROFF . . . Vice President
RALPH LITTMAN . . . . Secretary
SIDNEY VYORST . . . . Asst. Secretary
PAUL KRAMER . . . . . Treasurer

465 GRAND STREET, NEW YORK 2, N. Y.
ORegon 3-3900

June 16, 1965

7 copies

For file copy

Mr. Paul Belica
Executive Director
State Housing Finance Agency
393 Seventh Avenue
New York 1, N. Y.

Dear Mr. Belica:

We have previously submitted to you the balance sheet of Community Services, Inc. as of December 31, 1964 (unaudited).

This is to certify that the net worth of Community Services, Inc. as of May 31, 1965 is as great or greater than at December 31, 1964.

The balance sheet at December 31, 1964 does not reflect the construction supervision fees which will be due from Amalgamated Warbasse Houses, Inc. and Rochdale Village, Inc. at the completion of those projects, which is contemplated before the end of 1965. It is estimated that these fees will amount to $1,000,000 before taxes.

Sincerely yours,

COMMUNITY SERVICES, INC.

Paul Kramer
Comptroller

PK:cb

The financial statement and this letter updating it has been requested as a matter of routine in view of past performance of b/c and the technical set up of the operation. The liquid asset prequalifying has been waived on past cases and it is waived for this project also.

EXHIBIT "21"

BEST COPY AVAILABLE

EXHIBIT "21" - LETTER DATED JUNE 16, 1965, FROM COMMUNITY TO MR. PAUL BELICA, CONTAINING HANDWRITTEN ENDORSEMENT ON THE FACE THEREOF, WITH DECEMBER 31, 1964 UNAUDITED BALANCE SHEET ATTACHED - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

COMMUNITY SERVICES, INC.

Balance Sheet as of December 31, 1964 (Unaudited)

ASSETS

Current Assets		
Cash in Bank		
Regular Account	$ 44,589	
Payroll Accounts	2,118	
Insurance Department	28,344	
		$ 75,051
Petty Cash Funds		450
Notes Receivable - Equity Loans		28,564
Accrued Interest Receivable		266
Accounts Receivable		
Publicity & Education Department	$ 9,131	
Payroll Exchange Account	25,512	
Insurance Department	109,455	
Laundry Department	22,140	
Miscellaneous	34,913	
		201,151
Loans Receivable		
United Housing Foundation	$ 1,345	
Co-op City	100,250	
Mutual Redevelopment Houses	170,000	
Co-op Furniture Center, Inc.	20,000	
		201,595
Total Current Assets		$597,077
Fixed Assets		
Office & Miscellaneous Equipment	$ 68,894	
Less: Accumulated Depreciation	31,973	
	36,921	
Laundry Dept. Equipment	$303,292	
Less: Accumulated Depreciation	112,678	
	190,614	
		227,535
Investment in Intercooperative Petroleum Association, Inc.		1,000
Prepaid Expenses		23,730
Architect's Revolving Fund		7,500
Total Assets		$856,842

EXHIBIT "21" - LETTER DATED JUNE 16, 1965, FROM COMMUNITY TO MR. PAUL BELICA, CONTAINING HANDWRITTEN ENDORSEMENT ON THE FACE THEREOF, WITH DECEMBER 31, 1964 UNAUDITED BALANCE SHEET ATTACHED - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

COMMUNITY SERVICES, INC.

Balance Sheet as of December 31, 1964 (Unaudited)

LIABILITIES AND NET WORTH

Current Liabilities		
Advances from Rochdale Village, Inc.		$290,000
Advances from Amalgamated Warbasse Houses, Inc.		130,000
Accounts Payable - Insurance Dept.		137,849
Payroll Taxes Payable		7,485
Accrued Expenses and Other Payables		48,286
Accrued Pension Plan Expense		6,046
State Franchise Tax Payable		3,279
Federal Income Tax Payable		32,025
Total Current Liabilities		$654,970
Net Worth		
Capital Stock		$ 300
General Reserve - Balance, January 1, 1964	$142,808	
Add: Restoration of Investment Credit to Fixed Assets	3,523	
Add: Net Gain for the year ended December 31, 1964	55,241	
Balance, December 31, 1964		201,572
Total Capital		201,872
Total Liabilities and Net Worth		$856,842

EXHIBIT "22" - LETTER DATED JUNE 18, 1965, FROM COMMUNITY TO NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

COMMUNITY SERVICES, INC.

ABRAHAM E. KAZAN . . President
HAROLD OSTROFF . . . Vice President
RALPH LIPPMAN . . . . Secretary
SIDNEY VYORST . . . . Asst. Secretary
PAUL KRAMER . . . . . Treasurer

465 GRAND STREET, NEW YORK, N. Y. 10002
ORegon 3-3900

June 18, 1965

New York State Division of Housing
and Community Renewal
393 Seventh Avenue
New York, New York - 10001

Attn: Mr. George Cherr,
Assistant Commissioner, Project Development

Re: Co-op City
HCLP NO. 64-571

Gentlemen:

We wish to state for your record that it is our considered opinion that the above mentioned project can be built in accordance with the plans, specifications and addendum dated and signed on June 18, 1965 within the limitation of the development cost stated on Schedule A dated June 18, 1965.

Very truly yours,

COMMUNITY SERVICES, INC.

By _____
Abraham E. Kazan, President

BEST COPY AVAILABLE

EXHIBIT "23" - LETTER DATED JUNE 18, 1965, FROM RIVERBAY TO NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

RIVERBAY CORPORATION

465 GRAND STREET • NEW YORK, N. Y. 10002
ORegon 3-3900

CO-OP CITY

ABRAHAM E. KAZAN.....President
JACOB S. POTOFSKY.....Vice President
LOUIS STULBERG.....Secretary
ROBERT SZOLD.....Treasurer
HAROLD OSTROFF.....Asst. Secretary

SPONSOR
UNITED HOUSING FOUNDATIO

June 18, 1965

New York State Division of Housing
and Community Renewal
393 Seventh Avenue
New York, New York - 10001

Attn: Mr. George Cherr,
Assistant Commissioner, Project Development

Re: Co-op City
HCLP NO. 64-571

Gentlemen:

We wish to state for your record that it is our considered opinion that the above mentioned project can be built in accordance with the plans, specifications and addendum dated and signed on June 18, 1965 within the limitation of the development cost stated on Schedule A dated June 18, 1965.

Very truly yours,

RIVERBAY CORPORATION

By _____
Abraham E. Kazan, President

A HOUSING DEVELOPMENT COOPERATIVELY OWNED AND OPERATED

EXHIBIT "24" - RIVERBAY RENT SCHEDULE AND EQUITY
REQUIREMENTS, DATED JUNE 1, 1965
AND APPROVED JULY 15, 1965 -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

RIVERBAY CORP.
Co-Op City

Rent Schedule & Equity Requirements

Rent Schedule

Apt. Size	No. of R. R.	Rental Range Per D. U.	Rental Range Per R. R.	Average Rent Per R.R.	Monthly Carrying Charges	Average Utilities per D.U.	Utilities per D.U.	Total Rent Roll
3½	13,797	$63-91	$18-26	$22	$ 303,540	$10.00	$ 39,420	$ 342,960
4	5,600	80-112	20-28	24	134,402	10.25	14,350	148,752
4½	15,946	81-117	18-26	22	350,863	11.00	36,984	387,847
5	14,900	100-140	20-28	24	357,608	11.25	33,525	391,133
6	11,844	114-162	19-27	23	272,420	12.25	24,181	296,601
6½	10,790	130-182	20-28	24	258,970	12.50	20,750	279,720
	72,879			$23.02	$ 1,677,803	$11.04	$ 171,210	$ 1,849,013
					$20,133,636		$2,054,520	$22,188,156

Annual Rent Roll - 12 x $1,677,803

*3&4 condos

Equity Requirements

72,879 Rental Rooms @ $450. = $32,795,550.

APPROVED: RIVERBAY CORPORATION

APPROVED: this 15th day of July 1965

Date: _____

346a

EXHIBIT "24"

BEST COPY AVAILABLE

347a

SCHEDULE A

Name of Project RIVERBAY CORP. (CO-OP CITY) (X) Cooperative

Address of Project BRONX, NEW YORK ( ) Rental

Date June 18, 1965

NCLP # 04-2.2

ESTIMATED DEVELOPMENT COSTS AND CAPITAL REQUIREMENTS

	(1)	(2)	(3)	Per Rental Room (4)
1. CONSTRUCTION COSTS				
a. 1. Residential Structures	$183,828,000			
2. Commercial Structures & Community Spaces	7,750,000			
3. Garages Including Piles	17,000,000			
4. Site work & Landscaping	4,500,000			
5. Heating Plant Power Plant incl. Piles	26,000,000			
b. 1. Abnormal Foundations Piles (Res.& Car.)	7,500,000			
2. Other Abnormal Features Fill	6,100,000			
c. Demolition Costs City Site Work	2,829,750			
d. Test Borings	300,000			
e. Premium on Bonds	700,000			
f. Contractor's Home Office Overhead -.78%	2,000,000	$256,507,750		
g. Contractor's Fee - 0%	0			
2. PROFESSIONAL SERVICES		2,000,000	$258,507,750	$3,547
a. Architect's Fees	2,350,000			
b. Legal Fees	150,000			
c. Preliminary Surveys and Title Search	400,000			
d. Professional Engineer's & Laboratory Fees Incl. Fill Placement & Compaction Insp. Eng.	750,000	3,650,000		
3. SELLING OR RENTING EXPENSES				$.50
a. Selling Expenses	450,000			
b. Renting Expenses		450,000		$.6
4. CARRYING AND FINANCING CHARGES				
a. Interest @ % for Months	6,250,000			
b. Taxes @ % for Months on A.V. of	2,500,000			
c. N.C. Administrative Expenses	200,000			
d. Supervising Governmental Agency Fee 1.0%	2,509,000			
e. Financing Expenses 0.25	501,500			
f. Title and Recording Expenses	340,000	12,300,800		169
g. Contractor's Home Office Overhead - Non-Construction Items - %				(137)
h. Contractor's Profit on Non-Construction Items - %	(10,000,000)			
5. TOTAL		(10,000,000)	$ 6,400,800	
6. COST OF LAND ACQUISITION		170,250	$264,208,550	$3,635
a. Carrying Charges & Expenses		15,561,342		
7. ESTIMATED TOTAL DEVELOPMENT COST		581,858	16,113,450	$.221
8. CONTINGENCY - 0.7 % of Item #7		(200,000)		
			$281,022,000	$3,856
9. WORKING CAPITAL -0.24 % of Item #7		2,000,000		
10. ESTIMATED TOTAL CAPITAL REQUIREMENTS		673,550	2,673,550	$.37
11. MORTGAGE LOAN - 88.1% of Item #10			$283,695,550	$3,893
12. EQUITY REQUIREMENTS			$250,900,000	$3,443
a. 1. No. of Shares of Common Capital Stock			$ 32,795,550	$.450
2. Par Value - $				
b. Income Debentures (Interest %)				
c. Total Equity Capital				

No. of D.U.'s 15,500

Cost Per D.U. $18,130

No. of Rental Rooms 72,879

Cost Per Rental Room 3,856

RPA-LPH-2.24 (3/64)

2.24

EXHIBIT "25"

EXHIBIT "25" - SCHEDULES A & B, DATED JUNE 1st, 1965 -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

SCHEDULE B

Name of Project RIVERBAY CORP. (CO-OP CITY) Date JUNE 18, 1965 MCLP #64-571

No. of Dwelling Units	15,500	Land Area 9,147,600 Sq. Ft. 210 Acres	
No. of Rental Rooms	72,879	Land Coverage Residential 8 %	
Average Rental Rooms per D.U.	4.7	Density 79 Persons per Acre	
No. of Residential Buildings	39	No. of Garage Car Spaces 10,850	
No. of Stories per Building*	14;37;15 ;34	Cubage of Garages 28,000,600	
Cubage of Residential Bldgs.	45,170,000; 52,254,350; 46,000,650	No. of Parking Spaces	
Cubage of Commercial Bldgs.	6,200,000	Cubage of Power Plant	3,600,000
Community Center	1,800,000		
Mortgage Loan	$250,900,000	Estimated Total Development Cost	$281,022,000
Equity Requirements	$ 32,795,550	Land Cost	$ 16,113,450
Estimated Total Capital Requirements	$283,695,550	Zone Use. R-5	
Construction Contract Amount	$258,507,750	Estimated Net Taxable Assessment	$140,511,000

*For Each Different Story Height.

ESTIMATED RENT SUMMARY
(First Full Year of Operation)

A. V. of Land	$ 16,113,450			Level Debt Service Factor (.04900)
A. V. of Building(s)	$ 264,908,550			
Tax Exemption 50.8 of	$ 281,022,000	=	$140,511,000	
Net Taxable Assessment			$140,511,000	
a. Total Interest and Amortization on Mortgage				$ 12,309,1
b. Real Estate Taxes at Tax Rate of 5.04 $ on $140,511,000				$ 7,081,7
c. Maintenance and Operations ($68.49 per Rental Room) 69,859				$ 4,784,7
d. Reserve for Replacements ($ 5.00 per Rental Room) 69,859				$ 349,0
e. Governmental Agency Charge .0035 x 250,900,000				$ 870,1
f. Return on Equity Capital				$ - -
$ on $ Capital Stock		$ - -		$ - -
$ on $ Debentures		$ - -		$ - -
g. New York State Franchise Taxes - included in c.				$ - -
h. Annual Expenses				$ 25,403,-
i. Garage Rent $ 17.50 per Car x No. of Cars 10,850 x 12		$2,278,500		
Less 5% vacancy loss	$113,925	Net Garage Rent	$2,164,575	
j. Parking Rent $ per Car x No. of Cars x 12				
Less % vacancy loss		Net Parking Rent	$	
k. Income from Other Sources:				
Professional Apartments	$ 100,000			
Washing Machines & Other	$ 500,000			
Commercial Rentals 21,000,000 @ 5% Vac. 50,000	$ 950,000		$ 1,550,000	
l. Deduct: Annual Income from Garage, Parking & Other Sources				$ 3,714,-
m. Net Annual Expense Exclusive of Vacancy Loss & Tenant's Gas & Electricity @ $11.00 per D.U. per mo.				$ 21,000,- 2,0[illegible] 19,0[illegible]
n. Add: Dwelling Vacancy, Collection Losses & Contingencies Allowance of 2½ % of Item "m"				491,0
o. Total Net Annual Expense				$ 20,133,-
p. Average Rent per Rental Room per Month, Exclusive of Tenant's Gas & Electricity				$ 23.00
q. Average Rent per D.U. per Month, Exclusive of Tenant's Gas & Electricity				$ 108.25
r. Tenant's Gas and Electricity per D.U. per Month				$ 11.00
s. Average Rent per D.U. per Month (Including Tenant's Gas & Electricity				$ 119.25

APARTMENT DISTRIBUTION

Quantity	Apt. Size	% of Total	Rental Rooms
3,942	3½	25	13,797
* 1,400	4	9	5,600
3,544	4½	23	15,948
* 2,980	5	19	14,900
1,974	6	13	11,844
* 1,660	6½	11	10,790
15,500		100	72,879
*Balconies - 6040 x 1/2			3,000*
			69,879

HFA-LPA-2.2A (9-65)

SCHEDULE A

Date: 3-23-67

Name of Project RIVERBAY CORPORATION (X) Cooperative ( ) Rental ( ) Non Profit

Address of Project BRONX, NEW YORK

MCLP # 64-571

ESTIMATED DEVELOPMENT COSTS AND CAPITAL REQUIREMENTS

	(1)	(2)	(3)	(4) cost per Rental Room
1. COST OF LAND ACQUISITION City of New York		170,250		
a. No. of sq. ft. 2,997,705	$ 1.20 per sq. ft.	$15,561,312		
b. Carrying Charges & Expenses		$ 487,390		
c. Relocation and Other National Development Corp.		$ (200,000)	$16,018,882	$ .220
2. CONSTRUCTION COSTS Site Fill	$ 6,850,000			
a. [illegible]				
b. Abnormal Foundations & Conditions-Piles	$ 7,200,000			
c. Residential Structures/Community Bldgs.	$199,735,000			
d. Commercial Structures (if separate)	$ 7,950,000			
e. Garages Structures (if separate)	$ 12,600,000			
f. Other Structures Power Plant	$ 22,216,000			
g. Site Work	$ 5,000,000			
h. Off-site work	$ 14,629,750			
i. Demolition costs	850,000	$265,830,750		
j. Contractor's Overhead & Profit for Overhead 1% of Items 2a.-i.	800,000	$ 2,000,000	$267,830,750	$3,674.
3. DEVELOPMENT FEE 1% of Items 2a.-i.			$	$
4. PROFESSIONAL SERVICES				
a. Architect's Fee		$ 2,550,000		
b. Engineer's Inspection Fees		$ 350,000		
c. Laboratory Fees		$ 200,000		
d. Soil Investigation		$ 200,000		
e. Preliminary Surveys		$ 400,000		
f. Legal Fees		$ 150,000	$3,850,000	$ .53
5. SELLING OR RENTING EXPENSES				
a. Selling or Renting Fees		$ 500,000		
b. Advertising & Promotion		$		
c. Other		$	$ 500,000	$ .7.
6. CARRYING & FINANCING CHARGES				
a. Interest @ % for Months		$ 6,500,000		
b. R.E. Tax @ % for Months on A.V.		$ 2,600,000		
c. Supervising Governmental Agency Fee		$ 2,610,000		
d. Financing Expenses		$ 522,000		
e. Title and Recording Expenses		$ 353,000		
f. R.E. Administrative Expenses		250,000		
6. Subsidy from Philanthropy Rental Shortage Operations	$	$(10,000,000)	$2,835,000	$ .39.
7. ESTIMATED DEVELOPMENT COST			$291,034,732	$ .3,993.
8. CONTINGENCY - % of Item 7.			$ 2,000,000	
9. WORKING CAPITAL - % of Item 7.			$ 768,438	.03
10. ESTIMATED PROJECT COST			$293,803,200	$ 4,032.
11. MAXIMUM MORTGAGE LOAN - % of Item 10.			$261,000,000	3,581
12. EQUITY REQUIREMENTS OR CAPITAL CONTRIBUTION			$ 32,803,200	$ .450.
a. 1. No. of Class A Shares x (Par Value)	$	$		
2. No. of Class B Shares 1,312,128 (Par Value)	$25.00	$ 32,803,200		
b. Income Debentures (Interest at %)		$	$32,803,200	
c. Capital Contribution			$	

No. of H.U. 15,372 No. of Rental Rooms 72,896

Cost per H.U. $18,933 (Item 7, Col. 3 ÷ No. of H.U.) Cost per Rental Room $ 3,992 (Item 7, Col. 4)

HFA-LPA-2.2A (9-65)

EXHIBIT "26"

EXHIBIT "26" - SCHEDULES A, B & C, DATED MARCH 13, 1967 - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

SCHEDULE B

Name of project RIVERBAY CORPORATION (CO-OP CITY) Date of schedule 3-23-67

(X) Cooperative ( ) Rental ( ) Non-Profit

Residential rental rooms 72,856 including 2,056 balconies

ESTIMATED ANNUAL EXPENSES AND INCOME

COMPUTATION OF ASSESSED VALUATIONS:

Assessed valuation of land	$ 24,400,000
Assessed valuation of building(s)	$237,600,000
Total assessed valuation	$262,000,000
Tax exemption $ 50 % of total	$128,500,000
Net taxable assessment	$133,500,000

TERMS AND CONDITIONS OF MORTGAGE:

Mortgage interest rate 4.0 %
term 40 years

Maximum mortgage loan $ 262,000,000
Debt service factor 5.05

	(1)	(2)
I. CARRYING CHARGES & OPERATING EXPENSES		
a. Interest and amortization on mortgage		$13,206,600.
b. Governmental agency charge 0.25 %		$ 652,500.
c. Governmental agency supervision fee		$
d. N.Y.S. franchise taxes (and federal income tax)		$ 147,000.
e. Real estate taxes		
i. (1) Municipal taxes @ 5.50 % on net A.V.	$ 7,342,500.	
(2) Assessment for local improvements @ % on total A.V.	$	$ 7,342,500.
ii. Other local taxes		$
f. Maintenance & operations $ 73.89 per rental room per year x 69,930		$ 5,092,200.
g. Reserves for painting & decorating $ per rental room per year		$
h. Reserves for replacement $ 5.00 per rental room per year x 69,930		$ 349,650.
i. Return on equity capital		
i. % on $ of shares	$	
ii. % on $ of debentures	$	$
j. Other expenses (specify)		$
TOTAL		$26,729,454.
2. OFFSETS: NON-HOUSING INCOME		
a. Parking income		
i. 10,860 indoor spaces @ $ 180.00 per year		
less 5 % vacancy loss equals net indoor rent	$ 1,855,350.	
ii. outdoor spaces @ $ per year		
less % vacancy loss equals net outdoor rent	$	
b. Income from other sources		
i. Washing & vending machines @ $ per m.u. per year x no. of m.u.	$ 509,000.	
ii. Professional spaces $ 100,000 per year (30 x $3,333.33)		
less 10 % vacancy loss equals	$ 99,000.	
iii. Commercial spaces $ 700,000 per year (200 x sq. ft. @ $3.50)		
less 10 % vacancy loss equals	630,000	
TOTAL	$2,204,204	$ 5,279,454.
3. NET ANNUAL EXPENSE (Exclusive of allowance for vacancies and contingencies and tenants' utilities)		$21,449,000.
Total #1 less Total #2		
4. ADD: Allowance for vacancies and contingencies (2 % of item 3.)		$ 428,800.
5. TOTAL NET ANNUAL EXPENSE		$21,868,800

Net income to be derived from housing units exclusive of tenants' utilities.

HOUSING RENT OR CARRYING CHARGE PER MONTH

	Exclusive of Utilities	Utilities	Total
Per rental room	$ 25.00	$ 2.32	$ 27.32
Per housing unit	$118.55	$11.00	$129.55

2.c. Other Income

Cost of Utilities included in M & O and included in Carrying Charges 15,372 D.U.'s @ $11.00 per mo.	$2,029,104.
Interest earned on Debt Service and Escrow Fund Deposits	175,000.
Total	$2,204,204.

BFA-1/70-2.2a (4-66)

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Project No. 61-572
Date 3-23-67

FINANCIAL ESTIMATES OF RIVERBAY CORPORATION (CO-OP CITY)

A LIMITED PROFIT (NON-PROFIT) HOUSING PROJECT

Located at NEW ENGLAND THRUWAY & HUTCHINSON RIVER

County of
Town of BRONX, N. Y.
Borough of

Block No.: 5235, 5241 Lot No.: 52, 100

(X) Cooperative (Mutual) ( ) Rental ( ) Non-Profit

PROJECT STATISTICS

Proposed zoning R-6
No. of housing units 15,372
No. of rental rooms 72,856
Average rental rooms per H.U. 4.74
Total parking 10,860

Total land area 13,107,200 sq. ft. 300.9 acres
Net land area 9,185,000 sq. ft. 210.9 acres
Land coverage 3,922,200 sq. ft. 30 % total
Density 278 persons per acre
Ratio of parking to H.U.'s 70.6 %

Types of Structures	No. of Bldgs.	No. of Stories per Bldg.	No. of Elevators per Bldg.	Sq. Ft. Area (Typical Flr.)	Cubage of Bldgs.
Residential Garden Apts.	10	24	4	20,610	24,000,000
Residential Tower	15	33	4	15,580	4,000,000
Residential Town Houses	230	3	-	2,469 total bldg. flr. area	20,000
Commercial Stores	3	1 & 2	2	250,000	2,500,000
Garage	8	6 & Roof	2	59,718	2,970,000
Other Buildings (Power,	1	1	- -	35,000	2,480,000
Total				13,400	210,000,000

APARTMENT DISTRIBUTION

Apartment Type	Housing Units	Rental Rooms Per Unit	Rental Rooms Total	Distribution %	Max. No. of Persons per H.U.	Maximum No. of Persons
1 Bed Room	3660	3.5	13,520	25.0	2	7,320
1 Bed Room w/Balcony	1875	4.0	5,760	11.0	2	3,750
2 Bed Room	3920	4.5	17,640	25.5	4	15,680
2 Bed Room w/Balcony	1650	5.0	8,250	12.0	4	7,200
3 Bed Room	1650	6.0	9,900	11.0	6	9,870
3 Bed Room w/Balcony	2220	6.5	14,430	14.0	6	13,320
3 Bed Room	236	7.0	1,652	1.5	6	1,416
Professional	29	4.5	—	—	—	—
Superintendent	10 1	5.5 6.5	—	—		
TOTALS	15,412		72,896	2356	—	58,648

SUMMARY OF ESTIMATED COSTS

ESTIMATED TOTAL DEVELOPMENT COST	$
WORKING CAPITAL AND CONTINGENCY	$
TOTAL ESTIMATED PROJECT COST	$293,893,200
MAXIMUM MORTGAGE LOAN	$262,000,000
EQUITY CAPITAL REQUIREMENTS OR CAPITAL CONTRIBUTION	
a. i. ____ No. of Class A Shares X $ ____ Par Value	= $
ii. 1,272,123 No. of Class B Shares X $ 25.00 Par Value	= $32,803,202
b. Income debenture (____ % interest)	$
c. Capital contribution	$
	$32,803,202.

MAXIMUM AVERAGE RENT OR CARRYING CHARGE (Excluding Utilities) PER MONTH

$ 25.00 Per Residential Rental Room

BFA-1/70-2.2 (4-66)

EXHIBIT "26" - SCHEDULES A, B & C, DATED MARCH 13, 1967 - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

RIVERBAY CORPORATION

Schedule C (Revision)
March 13, 1967

It has been approximately two years since we filed all the appropriate agreements in connection with Co-op City. Since that time the scope and the physical set-up of the development has changed materially.

Our original physical set-up called for 39 high-rise buildings of varying size on a plot plan which did not include an educational park in the center. Now, due to the requirements of the City Planning Commission, the State Division of Housing and our own desire to make Co-op City as attractive as possible, we have a completely new site plan.

Briefly stated, the plan now provides 35 high-rise buildings of various sizes and some 236 two-family, low-rise town houses. We have reduced the number of garage buildings from nine to eight and have condensed the original five to six shopping areas into three areas.

The Planning Commission and the Board of Estimate have come to a final decision regarding an educational park which would house five of the six educational institutions originally planned for. We have had to carve out approximately twenty-six acres of land fronting on the New England Thruway, which has forced many of our buildings into areas which we previously anticipated leaving open. We had planned to leave these areas open because of the preliminary knowledge that they presented the most difficult foundation problems.

As we now review the impact of the above, we find our original estimates insufficient to cover these many changes that have been made necessary.

Our original concept of Co-op City, insofar as plans and specifications are concerned, was based on more or less the same type of building that was provided at Rochdale Village and Amalgamated Warbasse Houses. However, as plans were being processed, many more costly changes were made; in some instances these were proposed by ourselves and in other instances, they were required by the State Division of Housing.

During these past two years, we have also witnessed a sharp increase in costs, primarily in the mechanical trades, due to more than average increases in labor and uncertainty as to cost of materials. A prime example is the wide fluctuation in the cost of copper which has had a direct impact on the sizable increases in both electrical and plumbing work.

Because of the time required to settle our site plan with the appropriate city agencies, we were unable in many instances to finalize contract negotiations with contractors and were caught in the general inflationary period, reflecting itself in higher costs.

All of the three reasons listed above have made it necessary for us to make formal application for an increase in the mortgage from $250, 900, 000 to $261, 000, 000 or $10, 100, 000.

We are enclosing a schedule showing a breakdown of estimated costs as of June 1965 totalling $258, 507, 750; this is the figure shown on Schedule A of our approved application under the category of construction costs. We have listed in the second column of the schedule the revised trade payment breakdown which now incorporates all of our figures based on the present site plan and in most instances, contracts with subcontractors. The total is now $267, 830, 750 or an increase of $9, 323, 000 in construction costs.

The balance of $777, 000 of additional costs is made up of the following adjustments:

Architectural fees	$200, 000
Selling expense	50, 000
Housing company administration	50, 000
Government agency fee - supervision	101, 000
Financing expense	20, 200
Interest during construction	250, 000
Taxes during construction	100, 000
Title and recording fees	13, 000
Working capital	94, 918
Reduction in land cost	(94, 468)
Increase in equity	(7, 650)
	$777, 000

The increase in construction costs of $9, 323, 000 and the adjustments in other costs of $777, 000 make up the additional $10, 100, 000 which we are requesting.

An analysis of the net increase in construction costs is as follows:

A. Changes in Residential Buildings

1. Changes due to the new site plan, which now includes the town houses and the new locations of the high-rise buildings. In addition, we have raised the first floors of all of the high-rise buildings to provide open plazas.

Excavation	$ 500, 000	
Foundations	1, 400, 000	
Superstructure	2, 600, 000	
Masonry	700, 000	
Roofing	850, 000	
		$6, 050, 000

2. Increases in mechanical trades, over and above labor and material costs, have been caused by elimination of skip-stop elevators, bell and telephone intercommunications from apartments to lobby, added insulation of vertical risers, water pressure reducing valves on lower floors of high-rise buildings, lightning protection, Fire Department regulations re fire fighting apparatus and other lesser changes.

Plumbing	$3, 250, 000	
Electrical	3, 000, 000	
Elevators	800, 000	
Air conditioning units	700, 000	
Heating and air conditioning	(250, 000)	
		7, 500, 000

3. Changes in plans to pre-finished and additional kitchen cabinets, floor to ceiling bi-fold closet doors, additional sound insulation between apartments, elimination of plastering on ceilings and the substitution of heavy-duty paint.

Carpentry	$ 700, 000	
Millwork	2, 400, 000	
Painting	1, 600, 000	
Plastering and lathing	(2, 500, 000)	
		2, 200, 000

4. All remaining changes in our trade payment breakdown for the residential buildings are as follows:

Increases	
Additional flooring	$ 100,000
Windows	250,000
Balcony doors	160,000
Steel lintels	500,000
Iron work	450,000
Tile	50,000
Refrigerators	50,000
Terrazzo	200,000
Caulking	100,000
Incinerators	300,000
Temporary roads and misc.	650,000
	$2,810,000

Reductions	
Setting windows	$ 25,000
Glass and lobby fronts	90,000
Steel doors and bucks	300,000
Balcony and roof railings	150,000
Ranges	175,000
Venetian blinds	15,000
Medicine cabinets	70,000
Window cleaning	50,000
TV and intercom system (included in electrical work)	150,000
Direct labor	200,000
Reduction of contingencies	1,428,000
	$2,653,000

Net increase, miscellaneous items 157,000

The net increase, therefore, in the residential building category is: $15,907,000

B. Changes in All Categories other than Residential Buildings

1.	Commercial and Community Space	$ 200,000
2.	Garages - Savings are primarily due to a change from nine to eight garages, as well as a reduction of approximately 5% in space per car.	(4,200,000)
3.	Site Work and Landscaping	500,000
4.	Power Plant - Savings are primarily due to elimination of electric generating on premises.	(3,784,000)
5.	Piles for Residential Buildings and Garages	(300,000)
6.	Site Fill - We are now estimating about 4,500,000 yards of fill as against the original estimate of 4,000,000 yards.	750,000

7.	Test Borings	100,000
8.	Premium on Bonds	150,000
	Net Savings	($ 6,584,000)

When these savings are applied against the additional costs of the residential buildings, we have a net increase in construction costs of $9,323,000.

Effect on Carrying Charges (Schedule B)

The increase in the mortgage, of and by itself, would require an increase of approximately ninety cents per room per month.

However, during the past two years since the original Schedule B was adopted, other changes have become necessary as follows:

A. Expenses

1. Increase in Debt Service $ 897,446

The original debt service factor was calculated at .04906 which produced a dollar amount of $12,309,154. The new debt factor, based on a 4% interest rate and a mortgage of $261,000,000 is $13,206,600.

2. Government Agency Charge (225,650)

The original government agency charge was $878,150 based on .0035 of the mortgage. The new government agency charge is $652,500 based on .0025.

3. New York State and City Corporation Taxes 147,000

Since July of 1966 there has been levied a new New York City corporation tax which will require an additional annual payment of $73,500. (The State tax was classified previously under Maintenance and Operations.)

4. Real Estate Taxes 260,746

The original computation for real estate taxes was based on a 50% abatement of full development costs at a 5.04 rate. This amounted to $7,081,754.

Based on recent experience with the Tax Commission relative to negotiations for Rochdale Village we are recomputing our real estate taxes on the following basis: full taxes on $5,000,000 of commercial property, 50% abatement on 90% of balance of development cost, rate of 5.5. This produces a figure for real estate taxes of $7,342,500.

5. Reserve for Replacements 355

There has been an increase from $349,295 to $349,650 based on a change in room count from 69,859 to 69,930 or 71 additional rooms at $5 per room.

Schedule C
Riverbay Corporation

-5-

6. Maintenance and Operations — 236,416

The original figure for maintenance and operations, at the rate of $68.49 per rental room, equalled $4,784,788. Due to increases primarily in salaries, we are projecting a per room cost of $71.80 or a total of $5,021,204. (This increase of $236,416 in Maintenance and Operations is actually greater by $72,500 since that amount was previously included here to cover the New York State corporation tax and has now been reclassified under Item 3 above.)

Our total expenses have to be increased from $25,403,141 to $26,719,454 or: — $ 1,316,313

B. Income other than Residential

1. Garage Income — $ (369,225)

We have reduced the cost of rental of garage space from $17.50 to $15 per month, or a change from $2,164,575 to $1,855,350.

2. Professional Apartments — (10,000)

We have added a 10% allowance for vacancies, reducing the professional apartment income from $100,000 to $90,000.

3. Commercial Income — (320,000)

The commercial area has been reduced from 250,000 square feet at $4.00 per foot with 5% vacancy allowance to 200,000 square feet at $3.50 per foot and 10% vacancy allowance. Income has been reduced from $950,000 to $630,000.

4. Interest on Deposits — 175,000

We have added to Other Income the amount of $175,000 in interest earned annually on deposits in Debt Service and Operating Escrow Funds.

5. Income from Utilities — (16,896)

Reduced from $2,046,000 to $2,029,104.

6. Income from Laundry Rooms — ---

Remains $500,000.

The total of all other income therefore has been reduced from $5,760,575 to $5,279,454 or: — $ (481,121)

We are requesting a reduction of our allowance for vacancies and contingencies from the original 2 1/2% or $491,064 to 2% or $428,800., a reduction of $62,264.

350a

EXHIBIT "27" - SCHEDULE A AND FINANCIAL ESTIMATES, DATED MARCH 29, 1968 - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

SCHEDULE A

Date: 3-29-68

Name of Project RIVERBAY CORPORATION (X) Cooperative ( ) Rental ( ) Non Profit

Address of Project BRONX, NEW YORK

MCLP # 64-571

ESTIMATED DEVELOPMENT COSTS AND CAPITAL REQUIREMENTS

	(1)	(2)	(3)	(4) cost per Rental Room
1. COST OF LAND ACQUISITION CITY OF NEW YORK		170,250		
a. No. of sq. ft. 12,967,785 @ $ 1.20 per sq. ft.		$15,561,342		
b. Carrying Charges & Expenses		$ 487,390		
c. Relocation and Other National Development Corp		$ (200,000)	$16,018,982	$ 220
2. CONSTRUCTION COSTS				
a. ~~Demolition & Site Improvement Costs~~ Site Fill	$ 6,850,000			
b. Abnormal Foundations & Conditions- Piles	$ 7,200,000			
c. Residential Structures	$199,735,000			
d. Commercial Structures (If separate) and Community Bldgs.	$ 9,850,000			
e. Garages Structures (If separate)	$ 12,800,000			
f. Other Structures Power Plant	$ 22,216,000			
g. Site work	$ 5,000,000			
h. Off-site work	$ 2,829,750			
i. Premium on bonds	$ 850,000	$267,730,750		
j. Contractor's Overhead- 0.84%	400,000			
k. For overseas ____% of Items 2a.-i.		2,250,000	$269,980,750	$ 3,704
3. DEVELOPMENT FEE ____% of Items 2a.-i.			$	$
4. PROFESSIONAL SERVICES				
a. Architect's Fee		$ 2,550,000		
b. Engineer's Inspection Fees		$ 350,000		
c. Laboratory Fees		$ 200,000		
d. Soil Investigation		$ 200,000		
e. Preliminary Surveys		$ 400,000		
f. Legal Fees		$ 170,000	$ 3,870,000	$ 53
5. SELLING OR RENTING EXPENSES				
a. Selling or Renting Fees		$ 500,000		
b. Advertising & Promotion		$		
c. Other		$	$ 500,000	$ 7
6. CARRYING & FINANCING CHARGES				
a. Interest @ ____% for ____Months		$6,500,000		
b. R.E. Tax @ ____% for ____Months on A.V. ____		$2,600,000		
c. Supervising Governmental Agency Fee 0.6% of 11+250M		$1,816,000		
d. ~~Financing Expenses~~ I.F.A. Fee 0.3% of 11		$ 783,000		
e. Title and Recording Expenses		$ 353,000		
f. G. Administrative Expenses		250,000		
g. Surplus from Pre-Occupancy Operations		$ (10,000,000)	$ 2,302,000	$ 32
7. ESTIMATED DEVELOPMENT COST			$292,671,732	$ 4,016
8. CONTINGENCY - ____% of Item 7.			$ 100,000	
9. WORKING CAPITAL - ____% of Item 7.			$ 1,031,468	15
10. ESTIMATED PROJECT COST			$293,803,200	$ 4,031
11. MAXIMUM MORTGAGE LOAN - 88.83% of Item 10.			$261,000,000	3,581
12. EQUITY REQUIREMENTS OR CAPITAL CONTRIBUTION			$ 32,803,200	$ 450
a. 1. No. of Class A Shares ____ x (Par Value) $ ____			$	
2. No. of Class B Shares 312,128 x (Par Value) $25.00		$ 32,803,200		
b. Income Debentures (Interest at ____%)			$ 32,803,200	
c. Capital Contribution			$	

No. of H.U. 15,372 — No. of Rental Rooms 72,896

Cost per H.U. $ 19,039 (Item 7, Col. 3 ÷ No. of H.U.) — Cost per Rental Room $ 4,016 (Item 7, Col. 4)

HFA-LPM-2.34 (4-66)

EXHIBIT "27"

FINANCIAL ESTIMATES
OF
RIVERDAY CORPORATION (CO-OP CITY)
A LIMITED PROFIT (NON-PROFIT) HOUSING PROJECT

Project No. 64-57
Date 3-29-68

Located at NEW ENGLAND THRUWAY & HUTCHINSON RIVER

County of)
Town of) BRONX, N. Y.
Borough of)

Block No.: 5135, 5141 Lot No.: 51, 100

(X) Cooperative (Mutual) ( ) Rental ( ) Non-Profit

PROJECT STATISTICS

Proposed zoning R-6
No. of housing units 15,372
No. of rental rooms 72,896
Average rental rooms per H.U. 4.74
Total parking 10,850

Total land area 13,107,200 sq. ft. 300.9 acres
Net land area 9,186,800 sq. ft. 210.9 acres
Land coverage 1,650,000 sq. ft. 18 % total
Density 278 persons per acre
Ratio of parking to H.U.'s 70.6 %

Types of Structures	No. of Bldgs.	No. of Stories of Each	No. of Elevators of Each	Sq. Ft. Area (Typical Fl.)	Cubage of Each
Residential Triple Core	10	60	6	29,700 per bldg.	2,970,000
Chevron	10	24	4	20,610 " "	4,438,000
Tower	15	33	4	15,500 " "	4,600,000
Town Houses	236	3	-	2,465 total bldg. fls.	28,000
Commercial S.C. Bldg.	1	1 & 2	2	236,000 " " "	3,300,000
S.C. Bldgs.	2	1 & 2	1	114,000 " " "	1,508,000
Garage	8	6 & Roof	2	59,718	2,970,000
Boiler Plant & Cooling Tower,	1	1	- -	52,650	2,393,000
				13,400	720,000
Total					211,369,000

APARTMENT DISTRIBUTION

Apartment Type	Housing Units	Rental Rooms Per Unit	Rental Rooms Total	Distribution %	Max. No. of Persons per H.U.	Maximum No. of Persons
a 1 Bed Room	3850	3.5	13,510	25.0	2	7,720
1 Bed Room w/balcony	1676	4.0	6,704	11.0	2	3,352
2 Bed Rooms	3920	4.5	17,640	25.5	4	15,660
b 2 Bed Room w/balcony	1800	5.0	9,000	12.0	4	7,200
c 3 Bed Room	1650	6.0	9,960	11.0	6	9,950
3 Bed Room w/balcony	2220	6.5	14,430	14.0	6	13,320
d 3 Bed Room w/dining L.R.Combo	236	7.0	1,652	1.5	6	1,416
Professional	29	4.5	—	—	—	—
Superintendent	10 1	5.5 4.5	—	—		
TOTALS	15,412		72,896	100%	—	58,648

SUMMARY OF ESTIMATED COSTS

ESTIMATED TOTAL DEVELOPMENT COST	$292,671,732
WORKING CAPITAL AND CONTINGENCY	$ 1,131,468
TOTAL ESTIMATED PROJECT COST	$293,803,200
MAXIMUM MORTGAGE LOAN	$261,000,000
EQUITY CAPITAL REQUIREMENTS OR CAPITAL CONTRIBUTION	

a. 1. _____ (No. of Class A Shares) X $_____ (Par Value) = $.....

2. 1,312,128 (No. of Class B Shares) X $25.00 (Par Value) = $32,803,200

b. Income debenture (_____ % interest) $.....
c. Capital contribution $_____ $32,803,200.

MAXIMUM AVERAGE RENT OR CARRYING CHARGE (Excluding Utilities) PER MONTH

$25.00 Per Residential Rental Room

RFA-LPH-2.2 (4-66)

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SCHEDULE A 9/15/69

Date: 9-15-69

Name of Project: RIVERDAY CORPORATION (HOUSING) (X) Cooperative ( ) Rental ( ) Non Profit

Address of Project: BRONX, NEW YORK

SCLP # 64-57

ESTIMATED DEVELOPMENT COSTS AND CAPITAL REQUIREMENTS

	(1)	(2)	(3)	(4) Cost per Rental Room
1. COST OF LAND ACQUISITION - City of New York		170,250		
a. No. of sq. ft. 12,967,785 @ 1.20 per sq. ft.		$ 15,561,342		
b. Carrying Charges & Expenses		$ 187,390		
c. Relocation and Other National Development Corp		$ (200,000)	$ 16,018,082	$ 220
2. CONSTRUCTION COSTS				
a. Demolition & Site Clearance Costs	Site Fill $ 7,450,000			
b. Abnormal Foundations & Conditions (Piles)	$ 9,055,000			
c. Residential Structures	$ 229,065,250			
d. Commercial Structures (if separate)	and Community Space $ 14,500,000			
e. Garages Structures (if separate)	$ 13,650,000			
f. Other Structures Power Plant	$ 29,350,000			
g. Site Work	$ 5,500,000			
h. Off-Site Work	$ 2,829,750			
i. Provision for Parks	$ 950,000	$307,750,000		
j. Test Housing Contingency Overhead 1/2% of Items 2a-i .89%	$ 400,000	$ 2,750,000	$310,500,000	$ 4,259
3. DEVELOPMENT FEE ____% of Items 2a-i			$	$
4. PROFESSIONAL SERVICES				
a. Architect's Fee		$ 2,975,000		
b. Engineer's Inspection Fees		$ 975,000		
c. Laboratory Fees		$ 200,000		
d. Soil Investigation		$ 100,000		
e. Preliminary Surveys		$ 1,450,000		
f. Legal Fees		$ 200,000	$ 5,900,000	$ 81
5. SELLING OR RENTING EXPENSES				
a. Selling or Renting Fees		$ 600,000		
b. Advertising & Promotion		$		
c. Other		$	$ 600,000	$ 8
6. CARRYING & FINANCING CHARGES				
a. Interest @ ____% for ____ Months		$ 18,500,000		
b. R.E. Tax @ ____% for ____ Months on A.V. ____		$ 7,900,000		
c. Supervising Governmental Agency Fee		$ 2,970,000		
d. Financing Expenses		$ 990,000		
e. Title and Recording Expenses		$ 453,000		
f. M.C. Administrative Expenses		300,000		
g. Surplus from Preoccupancy	$	(4,600,000)		
h. Accounting Expenses	$	$	$ 26,513,000	$ 364
7. ESTIMATED DEVELOPMENT COST			$359,531,082	$ 4,932
8. CONTINGENCY - ____% of Item 7.			$ 1,000,000)	13
9. WORKING CAPITAL - ____% of Item 7.			$ 2,167,718)	
10. ESTIMATED PROJECT COST			$362,699,700	$ 4,975
11. MAXIMUM MORTGAGE LOAN - 90.98% of Item 10			$330,000,000	4,527
12. EQUITY REQUIREMENTS OR CAPITAL CONTRIBUTION			$ 32,699,700	$ 448
a. 1. No. of Class A Shares ____ x (Par Value) $____			$	
2. No. of Class B Shares) 307,988 x (Par Value) $25.00		$ 32,699,700		
b. Income Debentures (Interest at ____%)		$	$	
c. Capital Contribution			$	

No. of H.U. 15,372 No. of Rental Rooms 72,896

Cost per H.U. $ 23,380. (Item 7, Col. 3 ÷ No. of H.U.)

Cost per Rental Room $ 4,930. (Item 7, Col. 4)

RFA-LPH-2.24 (4-68)

EXHIBIT "28" - SCHEDULES A, B & C, DATED SEPTEMBER 15, 1969 - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

SCHEDULE B

Name of project RIVERDAY CORPORATION (CO-OP CITY) Date of schedule 9-15-69

(X) Cooperative ( ) Rental ( ) Non-Profit

Residential rental rooms 72,800 including 2,900 balconies

ESTIMATED ANNUAL EXPENSES AND INCOME

COMPUTATION OF ASSESSED VALUATIONS:

Assessed valuation of land — Shelter Rent Tax
Assessed valuation of building(s) $
Total assessed valuation $
Tax exemption C _____ %
of totals $

Net taxable assessment $

TERMS AND CONDITIONS OF MORTGAGE:

Mortgage interest rate 6 %
term 40 years

Maximum mortgage loan $330,000,000
Debt service factor 6.6

	(1)	(2)
1. CARRYING CHARGES & OPERATING EXPENSES		
a. Interest and amortization on mortgage		$21,780,000
b. Governmental agency charge .25 %		$ 825,000
c. Governmental agency supervision fee		$
d. N.Y.S. franchise taxes (and ~~federal income tax~~) N.Y.C. Corp. Tax		$ 204,000
e. Real estate taxes		
i. (1) Municipal taxes @ ____ % on net A.V. Commercial	$ 300,000.	
(2) Assessment for local improvements @ ____ % on total A.V. Shelter Rent Tax	$ 2,485,000.	
ii. Other local taxes	$ -	$ 2,785,000
f. Maintenance & operations $ 82.00 per rental room per year (69,930)		$ 5,734,500
g. Reserves for painting & decorating $ ____ per rental room per year		$
h. Reserves for replacement $ 5.00 per rental room per year		$ 349,500
i. Return on equity capital		
i. ____ % on $ ____ of shares	$	
ii. ____ % on $ ____ of debentures	$ ____	$
j. Other expenses (specify)		$ ____
TOTAL		$31,678,000
2. DEDUCT: NON-HOUSING INCOME		
a. Parking income		
i. 10,850 indoor spaces @ $ 207.00 per year		
less 5 % vacancy loss equals net indoor rent	$ 2,133,652.	
ii. ____ outdoor spaces @ $ ____ per year		
less ____ % vacancy loss equals net outdoor rent Transient Parking	$ 150,000.	
b. Income from other sources		
i. Washing & vending machines @ $ ____ per M.U. per year x no. of M.U. ____	$ 500,000.	
ii. Professional spaces $ 120,000 per year		
less 10 % vacancy loss equals	$ 108,000.	
iii. Commercial spaces $ 1,000,000 per year		
less 10 % vacancy loss equals	$ 900,000.	
c. Other income (specify) TOTAL 2,429,104		$ 6,220,756.
3. NET ANNUAL EXPENSE (Exclusive of allowance for vacancies and contingencies and tenants' utilities)		$25,457,244
Total #1 less Total #2		
4. ADD: Allowance for vacancies and contingencies (1 % of Item 3.)		$ 254,572
5. TOTAL NET ANNUAL EXPENSE		$25,711,816

Net income to be derived from housing units exclusive of tenants' utilities.

HOUSING RENT OR CARRYING CHARGE PER MONTH

	Exclusive of Utilities	Utilities	Total
Per rental room	$ 29.39	$ 2.32	$ 31.71
Per housing unit	$139.21	$11.00	$150.21

2.c. Other Income

Cost of Utilities included in M & O and included in Carrying Charge 15,372 DU's @ $11.00 per month — $2,029,104.

Interest Earned on Debt Service and Escrow Fund Deposits — 400,000.

$2,429,104.

RFA-LPm-2.2a (4-65)

SCHEDULE A

Date: 9-15-69 (HOUSING & EDUCATION PLAN)

Name of Project RIVERDAY CORPORATION ( ) Cooperative ( ) Rental ( ) Non Profit

Address of Project BRONX, NEW YORK

RCLP #

ESTIMATED DEVELOPMENT COSTS AND CAPITAL REQUIREMENTS

	(1)	(2)	(3)	(4) cost per Rental Room
1. COST OF LAND ACQUISITION - City of New York		170,250		
a. No. of sq. ft. 12,907,755 @ 1.20 per sq. ft.		$15,561,342		
b. Carrying Charges & Expenses		$ 487,390		
c. Relocation and Other National Development Corp.		$ (200,000)	$16,018,982	$
2. CONSTRUCTION COSTS Site Fill				
a. Construction & Structural Costs	$ 7,450,000			
b. Abnormal Foundations & Conditions (Piles)	$ 9,055,000			
c. Residential Structures	$229,055,250			
d. Commercial Structures (If separate) Info Community Space	$ 14,500,000			
e. Garages Structures (If separate)	$ 13,650,000			
f. Other Structures Power Plant	$ 29,350,000			
g. Site Work	$ 5,500,000			
h. Off-Site Work	$ 2,829,750			
i. Fixtures on Beds	$ 1,105,000	$306,929,275		
j. Rent Premiums Including Allowance	400,000			
k. School Buildings Items 2a-j.	39,019,275	$ 3,141,743	$350,000,018	$
l. Contractors Overhead				
3. CONTINGENCY FEE ____ % of Items 2a-l			$ 63,703	$
4. PROFESSIONAL SERVICES				
a. Architect's Fee		$ 2,975,000		
b. Engineer's Inspection Fees		$ 975,000		
c. Laboratory Fees		$ 300,000		
d. Soil Investigation		$ 100,000		
e. Preliminary Surveys		$ 1,450,000		
f. Legal Fees		$ 242,500	$ 6,042,500	$
5. SELLING OR RENTING EXPENSES				
a. Selling or Renting Fees		$ 600,000		
b. Advertising & Promotion		$		
c. Other		$	$ 600,000	$
6. CARRYING & FINANCING CHARGES				
a. Interest @ ____ % for ____ Months		$ 22,120,000		
b. R.E. Tax @ ____ % for ____ Months on A.V. ____		$ 8,350,000		
c. Supervising Governmental Agency Fee		$ 3,290,000		
d. Financing Expenses		$ 1,128,000		
e. Title and Recording Expenses		$ 518,000		
f. M.C. Administrative Expenses		372,000		
g. Surplus Xpns. Preoccupancy	$	(4,000,000)		
h. Accounting Expenses	$	$	$ 31,208,000	$
7. ESTIMATED DEVELOPMENT COST			$403,999,298	$
8. CONTINGENCY - ____ % of Item 7.			$ 2,552,779	
9. WORKING CAPITAL - ____ % of Item 7.			$ 2,147,718	
10. ESTIMATED PROJECT COST			$408,699,795	$
11. MAXIMUM MORTGAGE LOAN - 92 % of Item 10			$376,000,000	
12. EQUITY REQUIREMENTS OR CAPITAL CONTRIBUTION			$ 32,699,795	$
a. 1. No. of Class A Shares 1,307,988 x (Par Value) $ 25.00			$32,699,700	
b. No. of Class B Shares ____ x (Par Value) $ ____			$	
c. Income Debentures (Interest at ____ %)		$	$	
d. Capital Contribution			$	

No. of M.U. ____ No. of Rental Rooms ____

Cost per M.U. $ ____ (Item 7, Col. 3 ÷ No. of M.U.) Cost per Rental Room $ ____ (Item 7, Col. 4)

RFA-LPm-2.2a (4-65)

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SCHEDULE B

Name of project RIVERBAY CORPORATION Date of schedule 9-15-69

(X) Cooperative ( ) Rental ( ) Non-Profit

Residential rental rooms 72,896 including 2,966 balconies

ESTIMATED ANNUAL EXPENSES AND INCOME

COMPUTATION OF ASSESSED VALUATION:

Assessed valuation of land	$ 14,400,000	
Assessed valuation of building(s)	$311,600,000	
Total assessed valuation	$326,000,000	
Tax exemption @ 50 %		
of $19,000,000 of totals	$159,500,000	
Comml. 7,000,000		
Net taxable assessment	$166,500,000	

TERMS AND CONDITIONS OF MORTGAGE:

Mortgage interest rate 6 %
term 40 years

Maximum mortgage loan $330,000,000

Debt service factor 6.6

	(1)	(2)
1. CARRYING CHARGES & OPERATING EXPENSES		
a. Interest and amortization on mortgage		$21,780,000
b. Governmental agency charge _____ %		$ 825,000
c. Governmental agency supervision fee		$
d. N.Y.S. franchise taxes (and federal income tax)		$ 204,000
e. Real estate taxes		
i. (1) Municipal taxes @ 6.4 % on net A.V.	$10,656,000	
(2) Assessment for local improvements @ _____ % on total A.V.	$	
ii. Other local taxes	$	$10,656,000
f. Maintenance & operations $ 82.00 per rental room per year (69,930)		$ 5,734,500
g. Reserves for painting & decorating $ _____ per rental room per year		$
h. Reserves for replacement $ 5.00 per rental room per year		$ 349,500
i. Return on equity capital		
i. _____ % on $ _____ of shares	$	
ii. _____ % on $ _____ of debentures	$	$
j. Other expenses (specify)		
TOTAL		$39,549,000
2. DEDUCT: NON-HOUSING INCOME		
a. Parking income		
i. 10,850 indoor spaces @ $ 207 per year less 5 % vacancy loss equals net indoor rent	$2,133,652	
ii. _____ outdoor spaces @ $ _____ per year less _____ % vacancy loss equals net outdoor rent (Transient Parking)	$ 150,000	
b. Income from other sources		
i. Washing & vending machines @ $ _____ per H.U. per year x no. of H.U. _____	$ 500,000	
ii. Professional spaces $ 120,000 per year less 10 % vacancy loss equals	$ 108,000	
iii. Commercial spaces $ 1,000,000 per year less 10 % vacancy loss equals	$ 900,000	
c. Other income (specify)	TOTAL 2,504,104	$ 6,295,756
3. NET ANNUAL EXPENSE (Exclusive of allowance for vacancies and contingencies and tenants' utilities)		$33,253,244
Total #1 less Total #2		
4. ADD: Allowance for vacancies and contingencies (1 % of item 3.)		$ 332,532
5. TOTAL NET ANNUAL EXPENSE		$33,585,776

Net income to be derived from housing units exclusive of tenants' utilities.

HOUSING RENT OR CARRYING CHARGE PER MONTH

	Exclusive of Utilities	Utilities	Total
Per rental room	$ 38.39	$ 2.32	$ 40.71
Per housing unit	$181.84	$11.00	$192.84

2.c. Other Income

Cost of Utilities included in M & O and included in Carrying Charge 15,372 DU's @ $11.00 per month	$2,028,104
Interest Earned on Debt Service and Escrow Fund Deposits	475,000
	$2,503,104

BFA-LPA-2.2a (4-66)

SCHEDULE B

Name of project RIVERBAY CORPORATION (CO-OP CITY) Date of schedule 9-25-69

(X) Cooperative ( ) Rental ( ) Non-Profit

Residential rental rooms 72,896 including 2,966 balconies

ESTIMATED ANNUAL EXPENSES AND INCOME

COMPUTATION OF ASSESSED VALUATION:

Assessed valuation of land	$ Shelter Rent Tax	
Assessed valuation of building(s)	$ _____	
Total assessed valuation	$	
Tax exemption @ _____ %		
of totals	$	
Net taxable assessment	$	

TERMS AND CONDITIONS OF MORTGAGE:

Mortgage interest rate 6 %
term 40 years

Maximum mortgage loan $330,000,000

Debt service factor 6.6

	(1)	(2)
1. CARRYING CHARGES & OPERATING EXPENSES		
a. Interest and amortization on mortgage		$21,780,000
b. Governmental agency charge _____ 25 %		$ 825,000
c. Governmental agency supervision fee		$
d. N.Y.S. franchise taxes (and federal income tax) N.Y.C. Corp. Tax		$ 204,000
e. Real estate taxes		
i. (1) Municipal taxes @ _____ % on net A.V. Commercial	$ 300,000.	
(2) Assessment for local improvements @ _____ % on total A.V. Shelter Rent Tax	$ 2,485,000.	
ii. Other local taxes	$	$ 2,785,000
f. Maintenance & operations $ 82.00 per rental room per year (69,930)		$ 5,734,500
g. Reserves for painting & decorating $ _____ per rental room per year		$
h. Reserves for replacement $ 5.00 per rental room per year		$ 389,500
i. Return on equity capital		
i. _____ % on $ _____ of shares	$	
ii. _____ % on $ _____ of debentures	$	$
j. Other expenses (specify)		
TOTAL		$31,678,000
2. DEDUCT: NON-HOUSING INCOME		
a. Parking income		
i. 10,850 indoor spaces @ $ 207.00 per year less 5 % vacancy loss equals net indoor rent	$2,133,652.	
ii. _____ outdoor spaces @ $ _____ per year less _____ % vacancy loss equals net outdoor rent (Transient Parking)	$ 150,000	
b. Income from other sources		
i. Washing & vending machines @ $ _____ per H.U. per year x no. of H.U. _____	$ 500,000	
ii. Professional spaces $ 120,000 per year less 10 % vacancy loss equals	$ 108,000	
iii. Commercial spaces $ 1,000,000 per year less 10 % vacancy loss equals	$ 900,000	
c. Other income (specify)	TOTAL 2,429,104	$ 6,220,756
3. NET ANNUAL EXPENSE (Exclusive of allowance for vacancies and contingencies and tenants' utilities)		$25,457,244
Total #1 less Total #2		
4. ADD: Allowance for vacancies and contingencies (1 % of item 3.)		$ 254,572
5. TOTAL NET ANNUAL EXPENSE		$25,711,816

Net income to be derived from housing units exclusive of tenants' utilities.

HOUSING RENT OR CARRYING CHARGE PER MONTH

	Exclusive of Utilities	Utilities	Total
Per rental room	$ 29.39	$ 2.32	$ 31.71
Per housing unit	$139.21	$11.00	$150.21

2.c. Other Income

Cost of Utilities included in M & O and included in Carrying Charge 15,372 DU's @ $11.00 per month	$2,028,104.
Interest Earned on Debt Service and Escrow Fund Deposits	400,000.
	$2,428,104.

BFA-LPA-2.2a (4-66)

EXHIBIT "28" - SCHEDULES A, B & C, DATED SEPTEMBER 15, 1969 - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

RIVERBAY CORPORATION (CO-OP CITY) HCLr .68-571

SCHEDULE C

Calculation of Pre-occupancy Date Net Income as of 9/15/69

(000 Omitted)

RENT INCOME

Section #	Initial Occupancy Date	Annual Rent	1969	1970	1971	1972	Total
I	1/69 (12/10/68)	$4,587	$2,451	$ 4,465	$ 4,587	$ 4,587	
II	9/69	3,694	240	2,659	3,694	3,694	
III	1/70	2,943	- -	2,364	2,943	2,943	
IV	12/70	4,105	- -	283	3,856	4,105	
V	7/71	6,537	- -	- -	1,507	6,537	
		$21,866	$2,691	$ 9,791	$16,587	$21,866	$50,935
17.5% Increase (excluding utilities) will go in effect as of 7/1/70				856	2,903	3,827	7,586
TOTAL RENT INCOME			$2,691	$10,647	$19,490	$25,693	$58,521

OCCUPANCY EXPENSE

M & O	$5,735					
Less: Utilities	2,029					
Net M & O	$3,706	$ 900	$ 2,200	$ 3,000	$ 3,706	9,806
						$48,715

OTHER INCOME

Gross	$6,220					
Less: Utilities	2,029					
	$4,191	$ 500	$ 1,600	$ 3,350	$ 4,191	9.641
						$58,356
Less: Agency Fee						2,106
						$56,250

APPLICATION OF NET PRE-OCCUPANCY DATE NET INCOME (000 Omitted)

	Gross	Applied To Operations	Schedule A	Schedule A (Rounded)
(a) Interest	$62,594	$44,037	$18,557	$18,500
(b) Taxes	15,482	7,619	7,863	7,900
(c) Net Operating Income	56,250	4,594	(4,594)	(4,600)
		$56,250		

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Computation of Shelter Rent

Schedule C

(Following Items from Schedule B)

Total Item 1		$31,678,000
Less: Item 1.e.		2,785,000
		$28,893,000
Add: Item 4		254,572
		$29,147,572
Deduct:		
2.a. 1 & 2	$2,283,652	
b. 1	500,000	
II	108,000	
III 900,000		
Less R.E.Tax 300,000	600,000	
c. Utilities- G.& E.	2,029,104	
Heat & Air Cond.@ $18	1,258,000	6,778,756
Tax Base		$22,368,816

Shelter Rent Tax Computation $\frac{22,368,816}{9}$ = $ 2,485,424

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RIVERBAY CORPORATION (CO-OP CITY) HCLP #64-571

SCHEDULE C

Calculation of Real Estate Taxes During Development
as of 9/15/69
(000 Omitted)

	Rate	7/1/65-6/30/69	7/1/69-6/30/70	7/1/70-6/30/71 5.8%	7/1/71-6/30/72 6.1%	7/1/72-12/31/72 6.4%	Total
Taxes Paid (net) to 6/30/69		$4,315					
Bills on Hand (as adj. for 50% abatement)			$3,150				
1970/71							
Sect. I Complete	$32,000			$1,856	$1,952		
II	22,800			1,322	1,391		
III	18,700			1,085	1,141		
Work in Process	25,000			1,450			
1971/72							
Sect. IV Complete	$24,000				1,464		
Work in Process	25,000				1,525		
1972/73							
Job Complete	$133,500					4,272	
		$4,315	$3,150	$5,713	$7,473	$4,272	$24,923
Substitute:							
Shelter Rent Tax Formula Effective 1/1/71				$(1,856)	$(1,952)		
				(1,322)	(1,391)		
				(1,085)	(1,141)		
7/1/70 - 12/31/70	$\frac{10,647}{2} \times 10$			532	(1,464)	(4,272)	
1/1/71 - 12/31/71				975	975		
1/1/72 - 12/31/72					1,280	1,280	
		$4,315	$3,150	$2,957	$3,780	$1,280	$15,482

RIVERBAY CORPORATION

SCHEDULE C

Projected Interest Cost
(000 Omitted)

Principal Amt		5/1/68-5/1/69	5/1/69-5/1/70	5/1/70-5/1/71	5/1/71-5/1/72	5/1/72-11/1/72	11/1/72-12/31/72	Total	
$71,600	Bonds @ 5.2%	$ 4,768	$4,768	$ 4,768	$4,768	$2,384	$ 795	$22,251	
30,000	Bonds @ 6% (11/1/69)	- -	2,400	4,800	4,800	2,400	800	15,200	
80,000	Bonds @ 6% (5/1/70)	- -	- -	4,800	4,800	2,400	800	12,800	
50,000	Outstanding BAN (Cumulative to 5/1/69)	12,750	- -	- -	- -	- -	- -	12,750	
50,000	BAN - 12/1/69 - 5/1/70 @ 6½%	- -	650	- -	- -	- -	- -	650	
50,000	BAN - 9/15/69 - 9/15/70 @ 6½%	- -	- -	1,950,000	- -	- -	- -	1,950	
65,000	5/1/70 - 12/31/72 @ 6.5%	- -	- -	- -	- -	- -	11,267	11,267	
	TOTAL ESTIMATED INTEREST EXPENSE								$76,868
Interest Income									
7/31/69 Cash & Invest	$19,435,000 for ½ mo. @ 7% (½)	- -	$ 226	- -	- -	- -	- -	$ 226	
Earnings to 7/31/69:									
BAN		$6,375							
Premium on BAN		7							
MIL		1							
Good Faith Deposit		2							
Capitalized Interest		204							
Premium & Accrued Interest on Bonds		359							
Escrow Earnings		163							
		$7,111	- -	- -	- -	- -	- -	7,111	
Interest on Capital Interest from 5/1/68 @ 6½%:									
2,334 to 10/29/69 x 1½		- -	224	- -	- -	- -	- -	224	
4/28/70 x 2		- -	298	- -	- -	- -	- -	298	
10/29/70 x 2½		- -	- -	372	- -	- -	- -	372	
4/28/71 x 3		- -	- -	448	- -	- -	- -	448	
10/29/71 x 3½		- -	- -	- -	522	- -	- -	522	
20,000 BAN	½ x 7% for 4 months	- -	233	- -	- -	- -	- -	233	
30,000 BAN	½ x 7%	- -	- -	350	- -	- -	- -	350	
65,000 BAN	½ x 7%	- -	- -	- -	- -	- -	2,275	2,275	
40,000 Escrow	11/1/69-6/1/70 7 mos. @ 7%	- -	- -	- -	2,215	- -	- -	2,215	
	TOTAL ESTIMATED INTEREST INCOME								14,274
	NET INTEREST COST								$62,594

EXHIBIT "29" - SCHEDULES A, B & C, DATED MAY 1, 1971 - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

SCHEDULE A

Date: 5-1-71

Name of Project RIVERBAY CORPORATION (HOUSING) (X) Cooperative ( ) Rental ( ) Non Profit

Address of Project BRONX, NEW YORK

BCLP # 64-571

BCNP # _____

ESTIMATED DEVELOPMENT COSTS AND CAPITAL REQUIREMENTS

	(1)	(2)	(3)	(4) Cost per Rental Room
1. COST OF LAND ACQUISITION				
a) City of New York		$ 170,250		
b) 12,967,785 @ $1.20 sq. ft.		15,561,342		
c) Carrying Charges & Expenses		487,390	$ 16,018,982	$ 220,...
d) National Development Corp.		(200,000)		
2. CONSTRUCTION COSTS				
a. Site Fill	$ 7,900,000			
b. Piles	$ 8,930,000			
c. Residential Structures	$238,269,000			
d. Comm'l. & Community Space	$ 18,950,000			
e. Garage Structures	$ 15,000,000			
f. Power Plant & Dist.System	$ 27,200,000			
g. Site Work	$ 13,571,250			
h. City Site Work	$ 3,629,750			
i. Insurance & Prem.on Bonds	$ 3,600,000	$337,450,000		
j. Test Borings	400,000			
k. Contractors Overhead		3,050,000	$340,500,000	$ 4,671...
3. DEVELOPMENT FEE _____ % of Items 2a.-i.			$ ...	$ ...
4. PROFESSIONAL SERVICES				
a. Architect's Fee		$ 2,975,000		
b. Engineer's Inspection Fees		$ 975,000		
c. Laboratory Fees		$ 200,000		
d. Soil Investigation		$ 100,000		
e. Preliminary Surveys		$ 1,450,000		
f. Legal Fees		$ 210,000	$ 5,910,000	$ 81...
5. SELLING OR RENTING EXPENSES				
a. Selling or Renting Fees		$ 600,000		
b. Advertising & Promotion		$ ...		
c. Other		$ ...	$ 600,000	$ 8...
6. CARRYING & FINANCING CHARGES				
a. Interest @ _____% for _____Months (Net)		$71,000,000		
b. R.E. Tax @ _____% for _____Months on A.V. _____		$17,600,000		
c. Supervising Governmental Agency Fee		$ 3,510,000		
d. Financial Expense/Housing Finance Agency Fee		$ 1,170,000		
e. Title and Recording Expenses		$ 595,000		
f. H.C. Administrative Expenses		300,000		
g. Surplus from Preoccupancy		(38,950,000)		
Reconstruction Interest	$ ...	$ ...	$ 55,175,000	$ 757...
7. COMMUNITY FACILITIES EQUIPMENT				
a. Equipment and Furnishings	$ --	$ --	$ ...	
8. ESTIMATED DEVELOPMENT COST			$118,203,982	$ 5,737...
9. CONTINGENCY - _____% of Item 8.			$ 2,000,000	
10. WORKING CAPITAL - _____% of Item 8.			$ 2,495,718	
11. ESTIMATED PROJECT COST			$122,699,700	$ 5,799...
12. MAXIMUM MORTGAGE LOAN - 92.26% of Item 11.			390,000,000	5,350
13. EQUITY REQUIREMENTS OR CAPITAL CONTRIBUTION			$32,699,700	$ 449...
a. 1. No. of Class A Shares _____ x (Par Value) $ _____			$ ...	
2. No. of Class B Shares 1,307,988 x (Par Value) $25.00			32,699,700	
b. Income Debentures (Interest at _____%)		$ _____	$ ...	
c. Capital Contribution			$ ...	

No. of H.U. 15,372 No. of Rental Rooms 72,896

Cost per H.U. $ 27,206 (Item 8, Col. 3÷No. of H.U.) Cost per Rental Room $ 5,737 (Item 8, Col. 4)

353a

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SCHEDULE A

Date: 5-1-71 (HOUSING & EDUCATIONAL PARK)

Name of Project RIVERBAY CORPORATION ( ) Cooperative ( ) Rental ( ) Non Profit

Address of Project BRONX, N. Y.

BCLP # _____

BCNP # _____

ESTIMATED DEVELOPMENT COSTS AND CAPITAL REQUIREMENTS

	(1)	(2)	(3)	(4) Cost per Rental Room
1. COST OF LAND ACQUISITION				
a. City of New York		$ 170,250		
b. 12,967,785 @ $1.20 sq. ft.		$15,561,342		
c. Carrying Charges & Expenses		$ 487,390	$16,018,982	$ ...
d. National Development Corp.		(200,000)		
2. CONSTRUCTION COSTS				
a. Site Fill	$ 7,900,000			
b. Piles	$ 8,930,000			
c. Residential Structures	$238,269,000			
d. Comm'l.& Community Space	$18,950,000			
e. Garage Structures	$15,000,000			
f. Power Plant & Dist.System	$27,200,000			
g. Site Work	$13,571,250			
h. City Site Work	$ 3,629,750			
i. Insurance & Prem. on Bonds	$ 3,600,000	$402,808,000		
j. Test Borings	400,000			
k. School Buildings	65,358,000	$ 3,703,580	$406,511,580	$ ...
l. Contractors Overhead				
3. DEVELOPMENT FEE _____ % of Items 2a.-i.			$ 99,000	$ ...
4. PROFESSIONAL SERVICES				
a. Architect's Fee		$ 2,975,000		
b. Engineer's Inspection Fees		$ 1,125,000		
c. Laboratory Fees		$ 200,000		
d. Soil Investigation		$ 100,000		
e. Preliminary Surveys		$ 1,450,000		
f. Legal Fees		$ 270,000	$ 6,120,000	$ ...
5. SELLING OR RENTING EXPENSES				
a. Selling or Renting Fees		$ 600,000		
b. Advertising & Promotion		$ ...		
c. Other		$ _____	$ 600,000	$ ...
6. CARRYING & FINANCING CHARGES				
a. Interest @ _____% for _____Months (Net)		$77,700,000		
b. R.E. Tax @ _____% for _____Months on A.V. _____		$18,200,000		
c. Supervising Governmental Agency Fee		$ 4,038,797		
d. Financial Expense/Housing Finance Agency Fee		$ 1,308,000		
e. Title and Recording Expenses		$ 665,000		
f. H.C. Administrative Expenses		300,000		
g. Surplus from Preoccupancy		(38,950,000)		
h. N.Y.S. & N.Y.C. Corp. Taxes		$ 93,000	$63,354,797	$ ...
7. COMMUNITY FACILITIES EQUIPMENT				
a. Equipment and Furnishings	$ --	$ --	$ ...	
8. ESTIMATED DEVELOPMENT COST			$492,704,359	$ ...
9. CONTINGENCY - _____% of Item 8.			$ 3,499,623	
10. WORKING CAPITAL - _____% of Item 8.			$ 2,495,718	
11. ESTIMATED PROJECT COST			$498,699,700	$ ...
12. MAXIMUM MORTGAGE LOAN - _____% of Item 11. (See Note Below)			$466,000,000	
13. EQUITY REQUIREMENTS OR CAPITAL CONTRIBUTION			$32,699,700	$ ...
a. 1. No. of Class A Shares _____ x (Par Value) $ _____			$ ...	
2. No. of Class B Shares 1,307,988 x (Par Value) $25.00			32,699,700	
b. Income Debentures (Interest at _____%)		$ _____	$ ...	
c. Capital Contribution			$ ...	

No. of H.U. _____ No. of Rental Rooms _____

Cost per H.U. $ _____ (Item 8, Col. 3÷No. of H.U.) Cost per Rental Room $ _____ (Item 8, Col. 4)

Note:
N.Y.S. Housing Finance Agency $ $436,000,000.
N.Y.C. Board of [illegible]

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RIVERBAY CORPORATION

SCHEDULE C

INCREASE IN CONSTRUCTION COSTS

a. Site Fill — Increase $450,000.

The fill was installed in accordance with approved filling plans to the elevations shown. Site drawings which were issued after September 1969 revised these grades and required that additional fill be brought in.

b. Piles — Decrease $125,000.

This item represents the piles for the residential buildings and the garages. The work has now been completed. Based upon the actual lengths of piles driven, it is possible to reduce the estimated cost.

c. Residential Structures — Increase $9,203,750

The increase is due to a number of factors:

(1)	Plan changes	$ 3,733,750
(2)	Sub-contract escalation	4,500,000
(3)	Theft and vandalism not covered by insurance	2,000,000
(4)	Direct labor and general condition increases due to extension of construction and delays in work performed by the City	2,700,000
		$12,933,750
Less:	insurance transferred to Item (i)	- 2,600,000
Less:	plumbing distribution transferred to Item (f)	- 1,130,000
	Net Increase	$ 9,203,750

d. Commercial & Community Space — Increase $4,300,000

At the time of the last contract signing in September 1969, final drawings for Shopping Centers Nos. 2 and 3 had not been prepared and the estimates were based upon preliminary sketches. The present estimates are based upon final drawings. The increase applies to Shopping Centers Nos. 2 and 3. The cost of Shopping Center No. 1, for which final drawings were available, remains unchanged. The revised estimate also includes changes made for commercial tenants and the driving of additional piles made necessary by the City's surcharging of adjacent roads.

e. Garage Structures — Increase $1,350,000

Of this amount, $1,000,000 represents the cost of reconstruction of Garage G-3 which was damaged by fire. This money is required for payment to subcontractors. When payment is received from the insurance company, it will accrue to the Housing Company. The balance of the increase represents plan changes such as the addition of spandrel facings, paint striping and elevator vestibules as well as revisions in the exterior masonry treatment, enclosing of first floors, revisions in attendants' offices and modifications in electrical work.

f. Power Plant and Distribution System — Increase $2,850,000

This increase consists of $995,000 additional for the power plant and $1,855,000 for the distribution system. The power plant cost increase covers plan changes ordered by various City agencies, revisions in construction requested by the operating personnel and the inclusion in the estimate of two major items of work which have been proposed but have not as yet been started: conversion of the boilers to accept either fuel oil or natural gas as an operating fuel and the construction of maintenance and storage shops under the cooling tower.

The distribution system increase of $1,855,000 includes $1,130,000 for the plumbing distribution system which was previously listed as part of the residential buildings. This item has been made part of the distribution system since it actually applies to all buildings. The balance of the increase was due to foundation changes, and plan changes such as the addition of new work to serve Shopping Centers Nos. 2 and 3, the addition of manholes and changes in the type of piles from wood to steel.

g. Site Work — Increase $8,071,250

There were no final site plans available at the time of the September 1969 contract signing and cost estimates were based upon preliminary plans. The new estimates are based upon final approved plans. Included in this estimate is $350,000 for a program of site signs which is contemplated but which has not yet been incorporated in the plans.

h. City Site Work — Increase $800,000

The increase represents bulkhead work at a cost of $600,000 which is a City contractual requirement. The balance represents piles driven for City sewers where they crossed Co-op City utility lines and miscellaneous work due to interferences between City work and Co-op City work.

i. Insurance & Premium on Bonds — Increase $2,650,000

Of this sum, $2,600,000 represents the cost of insurance for the job. It was previously listed as part of the residential buildings but has now been listed separately since it covers all the work at Co-op City. The increase of $50,000 in bonds is due to the fact that premiums on payment and performance bonds increase as the cost of work increases.

k. Contractor's Overhead — Increase $300,000

The increase represents 1% of the increase in the construction contract.

RIVERBAY CORPORATION

SCHEDULE "C"

4. Professional Services

f) Legal Fees:

Increased from $200,000 to $210,000 to cover additional work required for mortgage increase.

6. Carrying & Financing Expenses

e) Title & Recording Expenses

1.	Total to date	$453,000
2.	Title Insurance	
	Increased Mortgage $60,000,000 @ $1.443 per M	86,580
3.	Interim Progress	
	Surveys 24 months @ $200	4,800
		$544,380
	Rounded to	$545.000

EXHIBIT "29" - SCHEDULES A, B & C, DATED MAY 1, 1971 -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

RIVERBAY CORPORATION

SCHEDULE "C"

6b) Carrying & Financing Expenses - R. E. Taxes

REAL ESTATE TAXES -

Paid to	12-31-70 (Net)			$11,611,622.38
Paid 1/25/71	#4995	Period	1/1/71 - 3/31/71	1,009,597.67
Paid 4/25/71	#5318	"	4/1/71 - 6/30/71	795,567.47
		To	6/30/71	$13,416,787.52
Estimated - 1/2 of $2,785,000 Per Schedule B of 9/15/69			7/1/71 - 12/31/71	1,392,500.00
			1/1/72 - 12/31/72	2,785,000.00
REAL ESTATE TAXES - Inception to 12/31/72				$17,594,286.00

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EXHIBIT "29" - SCHEDULES A, B & C, DATED MAY 1, 1971 -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

RIVERBAY CORPORATION
SCHEDULE "C"

6a) Carrying & Financing Charges - Net Interest Cost

PERMANENT MORTGAGE	RATE	PRINCIPAL AMOUNT	INCEPTION TO 12/31/70	1971	1972	TOTAL
Series A - 1968	5.20	$ 91,690,000	$12,714,347	$ 4,767,880	$ 4,767,880	$22,250,107
Series A - 1969	6.75	63,040,000	4,964,400	4,255,200	4,255,200	13,474,800
Series A - 1970	6.60	74,270,000	3,676,365	4,901,820	4,901,820	13,480,005
Series A - 1971	6.5646	42,480,000	- -	2,788,645	2,788,645	5,577,290
Sub-Totals		$271,480,000	$21,355,112	$16,713,545	$16,713,545	$54,782,202
ESTIMATED ADD'L MORTGAGE						
As of 1/1/71-Temporary(*)	4.75	$60,000,000	- -	1,425,000	- -	1,425,000
As of 7/1/71	6.50	100,000,000	- -	3,250,000	6,500,000	9,750,000
As of 1/1/72 (**)	6.50	18,520,000	- -	- -	1,203,800	1,203,800
Total Mortgage (Est.)		$390,000,000	$21,355,112	$21,388,545	$24,417,345	$67,161,002
INTEREST EXPENSE ON B.A.N.'s-12/31/70			$19,368,197	- -	- -	19,368,197
						$86,52
TOTAL ESTIMATED INTEREST EXPENSE						
INTEREST INCOME						
Earned on B.A.N. & P.M.L.- 12/31/70						
See Above (*)	5.00	$60,000,000		$12,797,779		$12,797,779
	5.00	40,000,000		- -	- -	750,000
				- -	- -	500,000
See Above (**)	5.00	18,520,000		- -	463,000	463,000
INTEREST EARNED ON CASH & INVESTMENTS TO 12/31/70				$12,797,779	$ 463,000	$13,260,779
TOTAL ESTIMATED INTEREST INCOME						$13,52
NET INTEREST COST						$71,002

1/1/71-6/30/71
1/4 year
1/4 year
1/1/72-6/30/72

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EXHIBIT "29" - SCHEDULES A, B & C, DATED MAY 1, 1971 -
ANNEXED TO AFFIDAVIT OF JAY F. GORDON

RIVERBAY CORPORATION (CO-OP CITY) HCLP 604-571
SCHEDULE C
Calculation of Pre-Occupancy Date Net Income
as of 5/1/71
(000 Omitted)

RENT INCOME (Including Utilities)

Section #	Initial Occupancy Date	Annual Rent	12/10/68 to 12/31/70	1971	1972	Total
I	1/69 (12/10/68)	$ 5,814	A	$ 5,814	$ 5,814	
II	9/69	4,662	C	4,593	4,662	
III	1/70	3,697	T	3,671	3,697	
IV	12/70	5,147	U	4,208	5,147	
V	7/71	8,295	A	2,497	8,295	
			L			
TOTAL RENT INCOME (Including Utilities)		$27,615	$11,162	$20,783	$27,615	$59,560

OCCUPANCY EXPENSE

M & O (Including Utilities)	$ 7,230	$ 9,000	$ 9,500	25,730
				$33,830

OTHER INCOME

Gross	$7,080			
Less: Utilities	2,029			
	$5,051	$ 1,382	$ 2,618	$ 4,730
				8,730
				$42,560
Less: N.Y.S. HOUSING FINANCE AGENCY FEE				2,110
				$40,450
Less: CONTINGENCY				1,500
NET PRE-OCCUPANCY INCOME				$38,950

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RIVERBAY CORPORATION
SCHEDULE "B"

1. Carrying Charges & Operating Expenses

a) Interest & Amortization on Mortgage

	Principal Amount	Annual Interest & Amortization
1968 Series A	$ 91,690,000	$ 5,490,000
1969 Series A	63,040,000	4,593,000
1970 Series A	74,270,000	5,316,000
1971 Series A	42,480,000	2,999,000
	$271,480,000	$18,398,000
* Additional Bonds to be Sold	118,520,000	8,378,000
	$390,000,000	$26,776,000

* at Debt Service Factor of 7.069%

Average Debt Service for Entire Mortgage 6.865%

b) Governmental Agency Charge:

Housing Finance Agency (.18% of $390,000,000)	$702,000
N.Y.S. Div. of Housing & Community Renewal (72,896 RR @ $4.20)	306,163
	$1,008,163
Rounded to	$1,008,000

c) Non Housing Income - Other Income

Debt Service - Interest	$24,376,000 x 1/4 =	$6,094,000
- Principal	2,400,000 x 1/2 =	1,200,000
R. E. Tax	$4,400,000 x 1/4 =	1,100,000
Reserves (2 yr. accumulation $1,200,000)	=	1,200,000
		$9,594,000
		x 5%
		$ 479,700
Rounded to		$ 500,000

RIVERBAY CORPORATION

SCHEDULE "B"

COMPUTATION OF SHELTER RENT TAX

Total Item 1			$42,268,500
Less: Real Estate Taxes			4,380,000
			$37,888,500
Add:			
Parking Income		$2,498,000	
Vacancy & Contingency Reserve		254,572	2,750,572
			$40,639,072
Deduct:			
Utilities			
Electric & Gas		$2,029,000	
Heating & Air Conditioning		1,641,000	
		$3,670,000	
Commercial Space			
Rent	$1,106,000		
Less R. E. Tax	480,000	626,000	
Office Space		157,000	
Washing Machine Income		500,000	
Investment & Other Income		580,000	$ 5,533,000
			$35,106,072
Shelter Rent Tax Computation		35,106,072 / 9	= $ 3,900,675

Rounded to $3,900,000

EXHIBIT "30" - LETTER DATED JUNE 30, 1971, FROM CHARLES J. URSTADT, TO HON. JOSEPH H. MURPHY, WITH CERTIFIED COPY OF RESOLUTIONS OF RIVERBAY'S BOARD OF DIRECTORS - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

June 30, 1971

The Honorable Joseph H. Murphy
Chairman
New York State Housing Finance Agency
1250 Broadway
New York, New York 10001

Re: Riverbay Corporation (Co-op City)
HCNP #64-571 (81)
Application for Increased Mortgage

Dear Sir:

On June 21, 1971, Riverbay Corporation filed an application to increase the mortgage by $60,000,000 from $376,000,000 to $436,000,000. This application has been received and approved by the appropriate bureaus in the Division.

The increase in the mortgage is requested in order to cover increases in construction costs, carrying and financial costs and operating costs.

Riverbay Corporation filed on June 24, 1971, an application for an increase in carrying charges pursuant to a resolution of the Board of Directors, copy of which is herewith attached. This increase is reflected in the financial Schedule B attached hereto and will produce sufficient added revenue to pay all required charges.

The increase in carrying charges is effective in two stages: 20% on January 1, 1973 and 12 1/2% on July 1, 1974.

I recommend that funds aggregating $60,000,000 thereby increasing this mortgage from $376,000,000 to $436,000,000 be reserved for this project.

Sincerely,

s Charles J. Urstadt
Charles J. Urstadt

CJU:gtw
Attachments

cc: CHRONO
P-4, C.J.Urstadt, P.Belica, P.F. Gaynor,Jr.
W.A.Conway, Jr., M.M.Duke, A. Hyman,
B. Hirschberg, P. Runco

EXHIBIT "30" - LETTER DATED JUNE 30, 1971, FROM CHARLES J. URSTADT, TO HON. JOSEPH H. MURPHY, WITH CERTIFIED COPY OF RESOLUTIONS OF RIVERBAY'S BOARD OF DIRECTORS - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

RIVERBAY CORPORATION

CERTIFICATE

I, ROY GAINSBURG, being the duly elected, qualified and acting Assistant Secretary of RIVERBAY CORPORATION, a New York corporation (hereinafter called the "Company"), do hereby certify that annexed hereto are true and correct copies of excerpts of minutes of the meeting of the Board of Directors of the Company duly held on June 23, 1971; that said excerpts reflect all of the action taken by the Board of Directors of the Company with respect to the increase of carrying charges at the Co-op City project; that such meeting was duly called and held on the date indicated; that a quorum was present and acting throughout such meeting; and that the resolutions adopted at such meeting as set forth in the annexed excerpts have not been modified or amended in any respect whatsoever and are in full force and effect as of the date of this certificate.

IN WITNESS WHEREOF I have hereunto annexed my hand and the seal of the Company on the 24th day of June, 1971.

ROY GAINSBURG, Assistant Secretary

[Corporate Seal]

EXHIBIT "30" - LETTER DATED JUNE 30, 1971, FROM CHARLES J. URSTADT, TO HON. JOSEPH H. MURPHY, WITH CERTIFIED COPY OF RESOLUTIONS OF RIVERBAY'S BOARD OF DIRECTORS - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

RESOLVED that, subject to the approval of the Commissioner of Housing and Community Renewal of the State of New York, the carrying charges (including utilities) at the Co-op City project are hereby increased by 20%, effective January 1, 1973, and that such carrying charges, as so increased, are hereby further increased, effective July 1, 1974, by 12-1/2% of the then carrying charges; and it was further

RESOLVED, that the officers of this corporation or any of them are hereby authorized and directed to enter into, on behalf of this corporation, such instruments and documents and to do and perform all such other acts and things as may be necessary or advisable in order to effectuate the aforesaid increases in the carrying charges.

EXHIBIT "31" - LETTER DATED MARCH 8, 1972, FROM ASSISTANT COMMISSIONER HECHT, TO MR. HAROLD OSTROFF - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

EXECUTIVE DEPARTMENT · DIVISION OF HOUSING AND COMMUNITY RENEWAL

393 SEVENTH AVENUE
NEW YORK, N. Y. 10001

PETER F. GAYNOR, JR.
DEPUTY COMMISSIONER

AVRUM HYMAN
DEPUTY COMMISSIONER

WILLIAM A. CONWAY, JR.
COUNSEL

ALBERT E. BIBBY
ASSISTANT COMMISSIONER

WILTON N. DUKE
ASSISTANT COMMISSIONER

FRED HECHT
ASSISTANT COMMISSIONER

STATE OF NEW YORK
CHARLES J. URSTADT
COMMISSIONER

ROBERT E. HERMAN
ASSISTANT COMMISSIONER

GEORGE ROUMANIS
ASSISTANT COMMISSIONER

ST. CLAIR T. BOURNE
EXECUTIVE ASSISTANT & INTERGROUP RELATIONS COORDINATOR

PETER J. HOPKINS
SPECIAL ASSISTANT TO THE COMMISSIONER

DAVID N. BUSSMAN
ADMINISTRATIVE OFFICER

March 8, 1972

Mr. Harold Ostroff, President
Riverbay Corporation
465 Grand Street
New York, New York 10002

Dear Mr. Ostroff:

As you are aware, Commissioner Urstadt has asked that the tenant-cooperators at Co-op City be given an opportunity, directly or through counsel of their choice, to develop and present at a public meeting alternate recommendations, based upon facts and sound findings, and with the burden of proof on the tenants, which would show that a lesser amount than the projected 20 percent increase in carrying charges scheduled for next January 1, 1973 and 12.5 percent scheduled for July 1, 1974 would suffice or that all of the funds requested are not required.

In order to accommodate the greatest number of tenant-cooperators at the least inconvenience in travel to them, we have determined that the full Community Room at Co-op City would be the best place to hold the meeting. Accordingly, we would like to reserve these rooms for the afternoon and evening of April 18th and the morning and afternoon of April 19th, the proposed dates of the meeting. The actual hours will be 1 P.M. to 6 P.M. and 7:30 P.M. to 10 P.M. on April 18th and 10 A.M. to 5 P.M. on April 19th.

In making the selection of the Community Room at the project, we recognize that its size will limit the number of tenant-cooperators who will be able to attend. We will, however, welcome all who are able to be accommodated and will ask those wishing to speak to register their desire at the time of entry so that we may allocate our time properly.

EXHIBIT "31" - LETTER DATED MARCH 8, 1972, FROM ASSISTANT COMMISSIONER HECHT, TO MR. HAROLD OSTROFF - ANNEXED TO AFFIDAVIT OF JAY F. GORDON

The Division will have appropriate staff representatives present to conduct the meeting and to furnish any further information that may be requested. It would be advisable, as well, to have knowledgeable representatives of the Riverbay Housing Corporation present as well should additional information be required.

I look forward to a favorable response from you as to the availability of the Community Room at Co-op City on the dates indicated.

Sincerely,

Fred Hecht

Fred Hecht
Assistant Commissioner
Field Services

CC: Mr. Edward Aronov, Manager

AFFIDAVIT OF MILTON FORMAN SWORN TO JANUARY 30, 1973 - IN OPPOSITION TO DEFENDANTS' MOTIONS AND IN SUPPORT OF CROSS-MOTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

MILTON FORMAN, being duly sworn, deposes and says:

1. I am the first-named plaintiff herein, and I make this affidavit in opposition to the defendants' (except Riverbay's) motion to dismiss the complaint and in support of the plaintiffs' several motions herein.

Class-Action Status

2. I previously verified the Amended Complaint herein on behalf of the plaintiffs. Paragraph 2 thereof sets forth the reasons why this Court is requested to grant class action status to Counts 1 through 9 of said Amended Complaint and said paragraph is hereby incorporated herein by reference. As of the date of this affidavit, more than 13,000 of the approximately 15,000 families residing in Co-op City have contributed to the Advisory Council's fund to finance this litigation,

thereby evidencing the total involvement of the class in this action.

3. In addition, for the reasons set forth in paragraphs 9 - 13 below, very few, if any, of these families could afford to carry on this lawsuit on an individual basis.

The Fraud Perpetrated on the Plaintiffs

4. I, and my wife, Ellen, like the other plaintiffs, subscribed for our stock in Riverbay on the basis of the statements contained in either the Information Bulletin or the Revised Information Bulletin. We simply had no other information available from which we could determine if we could afford to live in Co-op City. As is set forth in the accompanying memorandum of law, only those people who earned up to six times the monthly carrying charge (seven times in the case of a family of four or more) could qualify to be a stockholder of Riverbay, so that for practically all of the residents, the entire motivation to purchase stock in Riverbay was to obtain housing in a co-operative community at a cost which we could afford.

AFFIDAVIT OF MILTON FORMAN
SWORN TO JANUARY 30, 1973 -
IN OPPOSITION TO DEFENDANTS'
MOTIONS AND IN SUPPORT OF
CROSS-MOTION

5. I completely believed the assurances in the information bulletin sent to me, especially in view of the statements concerning the firm lump sum building contract and the close supervision of the State of New York. To be sure, I expected increases in monthly carrying charges due to normal increases in the cost of operations, but I never expected monumental increases in the cost of construction. Neither I nor the hundreds of residents with whom I have spoken since we, through the Advisory Council, collectively retained counsel had any inkling of any of the facts disclosed in the Amended Complaint, the Gordon affidavit submitted herewith, and plaintiffs' memorandum of law. Many of those facts were told to us by counsel for the first time in late March, 1972 at a meeting in their office. The bulk of the plaintiffs named herein and represented herein were advised of these facts by the local newspapers serving Co-op City following a public meeting on April 6, 1972.

6. Mr. Ostroff, in his affidavit (¶ 21) states that "each and every co-operator was advised of [forthcoming increases in carrying charges] in writing,"

referring to a "Dear Subscriber" letter attached to his affidavit as Exhibit D. The deficiencies of that letter and its legal effect are discussed in the accompanying memorandum of law submitted herewith. When, after reading Mr. Ostroff's affidavit, I told our counsel that I had no recollection of ever having seen that letter, he asked me to attempt to ascertain if and under what circumstances any of the other residents of Co-op City had received such a letter. I and several other persons then asked hundreds of residents if they had any recollection of recieving said "Dear Subscriber" letter. We were able to turn up only a handful of residents who had any recollection of ever having seen such a paper. Considering that the letter included a receipt acknowledging that the recipient had received and read that letter, it should be a simple metter for Mr. Ostroff to tell the Court how many residents signed receipts and when and under what circumstances said letter was sent.

7. In contrast therewith, Mr. Ostroff did cause Riverbay to reprint his affidavit of

AFFIDAVIT OF MILTON FORMAN
SWORN TO JANUARY 30, 1973 -
IN OPPOSITION TO DEFENDANTS'
MOTIONS AND IN SUPPORT OF
CROSS-MOTION

July 6, 1970 submitted in the Hanks case and circulate it to the residents. A copy of that affidavit is annexed hereto as Exhibit A. Its significance is discussed in Point V of the memorandum of law submitted herewith.

8. Mr. Ostroff in his affidavit herein, ¶ 48, makes the astounding statement that

> "the interests owned by plaintiffs are [not] worth any less than what they paid for them. In fact, plaintiffs nowhere contend that the values of their securities' are any less than such values on the day of subscription."

When we subscribed for Riverbay stock, we were told in the Information Bulletin that for an investment of $32,795,550, we were getting a corporation which would have a mortgage liability of $250,900,000. (Ex. 2 to Gordon aff'd., p. 13). Now, for an investment of $32,803,200 (Ex. 3 to Gordon aff'd, p. 5), we have a corporation burdened with a mortgage liability of $375,755,710 (Ex. 14 to Gordon aff'd.*). I wonder if Mr. Ostroff would

*The figure of $375,755,710 is the result arrived at by reducing the $421,755,710 shown therein by $46,000.00, the amount allocable to the construction of the Education Park, which is not the subject of challenge in the Amended Complaint.

pay the same consideration for his purchases when he found out he was only getting a fraction of the equity he bargained for?

The Temporary Injunction

9. Before the Court is a request by the plaintiffs for a temporary injunction of the monthly carrying charge increase from $29.39 per room to $35.27 per room, an increase of $5.88 or 20% which became effective on January 1, 1973 while this action was pending.

10. As hereinbelow indicated, by law, Co-op City is a community made up of people who did not earn more than six times their monthly carrying charge (seven times in cases of families of four or more). At the outset, based upon the Information Bulletin's statement of $23.02 per room carrying charge, the maximum allowable annual income for a family of four or more (assuming a five room apartment) was approximately $9,660. Co-op City has many senior citizens living on Social Security benefits or union pensions. Their maximum income qualification (assuming a four room apartment) was $6,624.

11. Obviously, there have been previous increases in carrying charges to get from $23.02 to $29.37 per room, the rate in effect on December 31, 1972. The latter figure already represents an increase of approximately 33 1/3% over the stated cost. The present increase of $5.88 brings this percentage up to approximately 60%. Obviously, the residents have not correspondingly received increases in income equaling 60%. Indeed, in cases of those same senior citizens, increases in Social Security benefits during this period have been about half that sum. Some of the residents' incomes may actually have dropped.

12. Through living in Co-op City, I have seen that the residents' situation is quite serious. Many are considering giving up their apartments and moving elsewhere. In other cases, wives and mothers have had to leave their children during the day and take jobs. Some undoubtedly have or will have to seek public assistance in order to meet this additional cost. In virtually all cases, the pinch cuased by this latest increase is severe. If the plaintiffs are correct in their claims against the

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defendants, then the Court will ultimately award financial relief either to the plaintiffs or Riverbay or both. For many of the residents of Co-op City, this relief will come too late if they are forced to make these major changes in their lives in order to cope with this latest increase. It is little comfort to a family who must give up their home and relocate, or go on public assistance, that sometime in the future, Riverbay's mortgage will be reduced. Our attorneys' efforts at obtaining a voluntary moratorium from the defendant mortgagee (the Agency) pending a complete review of this matter was rejected.

13. If the plaintiffs are, on the basis of the other papers submitted herewith, ultimately to succeed, what justification can there be for continuing an increased monthly carrying charge which is a hardship to many of the plaintiffs? Surely a Court of equity should shift the burden of these costs to the defendants in the case of the demonstration of probability of such success made in the papers herein.

[Duly sworn to
January 30, 1973]

s/ Milton Forman
MILTON FORMAN

The following is the affidavit of reply by Harold Ostroff Riverbay Corporation president, in connection with the injunction action taken by Leonard Hanks, president of the Tenants Council. This affidavit is presented in full to answer questions of why a rent increase has been instituted, the methods by which it goes into effect, and for an understanding of how a cooperative functions.

The Suit is being defended by the Counsel for Co-op City, the cost of which must be shared by all cooperators.

SUPREME COURT OF THE STATE OF NEW YORK
BRONX COUNTY

ANSWERING
AFFIDAVIT

LEONARD HANKS and LORRAINE HANKS, individually and as President and Treasurer respectively of the Co-op City Tenants' Council, an unincorporated association, on behalf of themselves and all others similarly situated,

Petitioners

-against-

CHARLES URSTADT, Commissioner of the Division of Housing and Community Renewal of the State of New York, and RIVERBAY CORPORATION,

Respondents.

STATE OF NEW YORK
COUNTY OF NEW YORK
ss:

HAROLD OSTROFF being duly sworn, deposes and says:

* * * * *

37. These same budgets with different and almost invariably lesser amounts on almost every line, were prepared in 1964. As to the construction budget, we were required to estimate the cost of construction which would not be completed for five or more years. We were required to estimate many other factors which would occur over these years, many unforseen and unforseeable. In essence, we were required to estimate the state of the national economy, inflation, wage rates, interest rates, the progress of the Vietnam war, etc., as it would fluctuate over the next five or more years.

* * * * *

48. Subsequently, in the latter part of 1969, it became possible to arrive at the present estimated costs of maintaining and operating the development. At that time it had become necessary to increase the amount of the mortgage so as to

obtain enough funds to complete the construction. At that time, also, the City of New York had granted additional tax abatement to the development, without which the estimated cost would have increased far beyond the 16.1%.

* * * * *

50. As stated, these new carrying charges were determined in connection with the increase in mortgage which was required in order to provide the Housing Company with the funds necessary to complete the project. Without such addition to the mortgage the entire enterprise would have collapsed.

* * * * *

55. I can only say that these increases result from the nationwide problems of inflation.

* * * * *

68. The statement that the Commissioner failed to exercise his statutory duty of supervision can be made only by someone who is completely ignorant of the facts.

* * * * *

Sworn to before me this
6th day of July, 1970
MILTON ALTMAN
Notary Public

s/ Harold Ostroff
HAROLD OSTROFF

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

Plaintiffs contend that there is no genuine issue to be tried with respect to the following material facts:

1. Defendant United Housing Foundation ("United") is a corporation organized and existing under the Not-for-Profit Corporation Law of the State of New York, which at all times mentioned in the amended complaint was engaged, inter alia, in the sponsorship of middle-income cooperative housing.

2. At all times mentioned in the amended complaint, defendant Community Services, Inc. ("Community") was and still is a corporation organized and existing under the Business Corporation Law of the State of New York.

3. At all times mentioned in the amended complaint, Community was and still is a wholly owned subsidiary of United.

4. Defendant Riverbay Corporation ("Riverbay") is a mutual company organized and existing under the Private Housing Finance Law of the State of New York

(popularly called the Mitchell-Lama Act) for the purpose of owning and operating a middle-income cooperative housing development known as "Co-op City", comprising approximately 15,372 apartment units located in the County of Bronx, State of New York.

5. Defendant New York State Housing Finance Agency ("Agency") is a corporate agency of the State of New York ("State"), created by the Mitchell-Lama Act, to help finance middle-income housing built pursuant to said Act by means of the making of mortgage loans, funded by the sale of bonds.

6. In May and June of 1965 Abraham E. Kazan was the president and a director of United, Community and Riverbay.

7. At all times mentioned in the amended complaint, defendants Harold Ostroff, Robert Szold and George Schecter were directors or officers, or both, of United and Community and Riverbay.

8. At all times mentioned in the amended complaint, defendants Paul Kramer and Irving Alter

were directors or officers, or both, of Community and of Riverbay.

9. At all times mentioned in the amended complaint, defendant Anthony Marino was a director or officer, or both, of United and of Community.

10. At all times mentioned in the amended complaint defendants Harold Ostroff, Robert Szold, Milton Altman, George Schecter, Anthony Marino, Paul Kramer, Irving Alter, dominated and controlled Riverbay, and selected its officers, directors, or both.

11. Prior to May, 1965, United caused Riverbay to be organized and applied to the Agency and to the State, acting by and through the Commissioner of Housing and Community Renewal, for approval of a proposed cooperative housing development in Bronx County, New York to be known as Co-op City, to be sponsored by United, owned by Riverbay, and constructed by Community, as general contractor.

12. Riverbay and Community entered into a construction contract, a sales agency agreement and an administrative service agreement, each dated June 18, 1965 and approved by the State, acting by and through its Commissioner of Housing and Community

Renewal (the "Commissioner"). Exhibits 4, 15, and 18 annexed to the affidavit of Jay F. Gordon (the "Gordon affidavit") are true copies of the construction contract, the sales agency agreement and the administrative service agreement, respectively.

13. Riverbay entered into a building loan agreement with the Agency, dated July 15, 1965 and approved by the Commissioner. A true copy thereof is annexed to the Gordon affidavit as Exhibit 10.

14. Commencing on or about May 12, 1965, United and Community, with the approval and consent of the State, acting by and through the Commissioner, published and circulated and caused Riverbay to publish and circulate an "Information Bulletin", dated May 12, 1965, a true copy of which is annexed to the Gordon Affidavit as Exhibit 2.

15. Commencing on or about May 15, 1967, United and Community, with the approval and consent of the State, acting by and through the Commissioner, published and circulated and caused Riverbay to publish and circulate a revised "Information Bulletin", dated May 15, 1967, a true copy of which is annexed to the Gordon affidavit as Exhibit 3.

16. On April 14, 1967, January 22, 1968, March 29, 1968, October 9, 1969 and July 7, 1971, respectively, the construction contract between Community and Riverbay was modified, with the approval of the Commissioner, by written agreements, true copies of which are annexed to the carbon affidavit as Exhibits 5, 6, 7, 8 and 9, respectively.

17. The Information Bulletin, the revised Information Bulletin and subscriptions for the stock of Riverbay were circulated and received by use of the mails.

18. On April 14, 1967, February 3, 1969, October 9, 1969 and July 7, 1971, respectively, the building loan agreement between Riverbay and the Agency was modified, with the consent of the Commissioner, by written agreements, true copies of which are annexed to the Gordon Affidavit as Exhibits 11, 12, 13 and 14, respectively.

19. On April 14, 1967 and October 9, 1969, respectively, the sales agency agreement between Riverbay and Community was modified, with the consent of the Commissioner, by written agreements, true copies of which are annexed to the Gordon affidavit as Exhibits 16 and 17, respectively.

20. On April 14, 1967 and October 9, 1969, respectively, the administrative service agreement between Riverbay and Community was modified, with the consent of the Commissioner, by written agreements, true copies of which are annexed to the Gordon affidavit as exhibits 18 and 19, respectively.

21. Exhibit 21 annexed to the Gordon affidavit is a true copy of (a) a letter dated June 16, 1965, which was delivered by Community to Mr. Paul Belica, executive director of the Agency; (b) a handwritten endorsement made upon the face of said letter after receipt thereof, by Mr. Belica or by another duly authorized officer, employee or representative of the Agency or of the Commissioner, or both; and (c) the balance sheet of Community, as of December 31, 1964 (unaudited), previously submitted by Community to the Agency and referred to in said letter of June 16, 1965.

22. Exhibits 22 and 23, respectively, annexed to the Gordon affidavit, are true copies of letters, both dated June 18, 1965 and submitted

to the New York State Division of Housing and Community Renewal by Community and Riverbay, respectively.

23. Exhibit 24 annexed to the Gordon affidavit is a true copy of a document prepared by Riverbay and approved on its behalf by Abraham E. Kazan and submitted to and approved by the Commissioner, in connection with the construction and financing of the Co-op City project.

24. Exhibits 25, 26, 27, 28 and 29 annexed to the Gordon affidavit are true copies of schedules dated June 18, 1965, March 13, 1967, March 29, 1968, September 15, 1968 and May 1, 1971, respectively, prepared and submitted by or on behaif of Riverbay or Community, or both, to the Commissioner, in connection with the construction and financing of the Co-op City housing project.

25. Exhibit 30 annexed to the Gordon affidavit is a true copy of the Commissioner's file copy of his letter dated June 30, 1971 to the then chairman of the Agency, together with

the certified copy of a resolution of Riverbay's Board of Directors, referred to in said letter.

26. Exhibit 31 annexed to the Gordon affidavit is a true copy of a letter dated March 8, 1972 from Fred Hecht, an assistant commissioner of the Division of Housing and Community Renewal, to the defendant Ostroff, as president of Riverbay.

27. Exhibit 1 annexed to the Gordon affidavit is a true copy of a letter dated February 4, 1972 from the assistant director of the Bureau of Finance of the Division of Housing and Community Renewal, on behalf of the director of said bureau, to Jay Gordon, Esq. of Phillips, Nizer, Benjamin, Krim & Ballon, the undersigned attorneys for the plaintiff in this action.

28. Exhibit "A" annexed to the affidavit of Milton Forman is a true copy of an affidavit of the defendant Harold Ostroff, sworn to July 6, 1970 and filed in an action or proceeding then pending in the Supreme Court of the State of New York.

29. Prior to June 16, 1965, the

Commissioner had promulgated and there was then in effect a "Guide for Development of Limited Profit Housing" which included, amoung other things, the portion thereof, under the heading "CONTRACTOR'S FINANCIAL PREQUALIFICATION REQUIREMENTS" quoted in full paragraph 8 of the Gordon affidavit.

30. At all times mentioned in the amended complaint the Agency knew all of the facts herein alleged.

Dated: New York, N.Y.
February 1, 1973

PHILLIPS,NIZER,BENJAMIN,KRIM & BALLON

BY: s/Jay Gordon
A Member of the Firm

Attorneys for Plaintiffs
477 Madison Avenue
New York, N. Y. 10022
758-6700

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

Plaintiffs for their amended and supplementary statement pursuant to Rule 9 (g) of the General Rules of this Court contend that there is no genuine issue to be tried with respect to the following material facts:

AMENDED STATEMENT

10. At all times mentiond in the amended complaint, defendants United, Community, State, Harold Ostroff, Robert Szold, Milton Altman, George Schechter, Anthony Marino, Paul Kramer, Irving Alter, dominated and controlled Riverbay and selected its officers, directors, or both.

20. On April 14, 1967 and October 9, 1969, respectively, the administrative service agreement between Riverbay and Community was modified, with the consent of the Commissioner, by written agreements, true copies of which are annexed to the Gordon affidavit as Exhibits 19 and 20, respectively.

24. Exhibits 25, 26, 27, 28 and 29 annexed to the Gordon affidavit are true copies of schedules dated June 18, 1965, March 13, 1967, March 29, 1968, September 15, 1969 and May 1, 1971, respectively, prepared and submitted by or on behalf of Riverbay or Community, or both, to the Commissioner, in connection with the construction and financing of the Co-op City housing project.

SUPPLEMENTAL STATEMENT

31. Prior to April 14, 1967, at least one of the residents of Co-op City subscribed for Class B capital stock of Riverbay and paid a deposit thereon.

32. The subscribers to the Class B capital stock of Riverbay have paid between $32,000,000 and $33,000,000 to Riverbay therefor.

33. The average monthly carrying charge to the residents of Co-op City increased from $29.39 per room to $35.27 per room on January 1, 1973 and a further increase to $39.68 per room is scheduled to

go into effect on July 1, 1974.

Dated: New York, N. Y.
February 7, 1973

PHILLIPS, NIZER, BENJAMIN,
KRIM & BALLON

By s/ George Berger
A member of the firm

Attorneys for Plaintiffs
477 Madison Avenue
New York, N. Y. 10022
758-6700

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS:-

HAROLD OSTROFF, being duly sworn, deposes and says:

1. I am making this affidavit in reply to the affidavits and Memorandum of Law of the plaintiffs, served in opposition to the defendants' motion to dismiss the amended complaint. I am doing so to set forth certain additional facts with regard to two points only -- (a) the fact that there is no possibility of profit by anyone on the sale of stock in Riverbay Corporation, and (b) the fact that the stock purchased by the plaintiffs is today worth at least as much as the price paid for it.

2. I cannot understand how anyone can seriously contend that the stock of Riverbay Corporation or any other cooperative organized and existing under the Mitchell-Lama law can be sold

at a profit. In all of my experience with cooperatives of this nature, and with cooperatives organized under the predecessor statutes dating back to 1927, I have never heard of a single case in which the stock of such cooperatives has been sold at a profit.

3. Furthermore, I know that the Bylaws of Riverbay Corporation require every stockholder who desires to sell to first offer his stock to the corporation at the exact price he paid for it. This type of Bylaw exists in similar form in all of the types of cooperatives I have mentioned. Such cooperatives always exercise the option to purchase whenever there is someone on the waiting list maintained by the cooperatives who wishes to buy the stock. At the present time, Riverbay Corporation has approximately 7,000 applicants on its waiting list and would, therefore, be in a position to exercise the option if anyone wished to sell. With a turnover at present of approximately 300 families per annum, this waiting list will last for a long, long time.

4. We in the cooperative movement have found that our low-cost housing cooperatives have been in great demand and have had long waiting lists for many, many years. However, as a precaution, most of the cooperatives I am connected with have extablished and maintained reserve funds to be utilized for the repurchase of stock if drastic changes in economic conditions make it impossible to find buyers.

5. A like reserve fund has been established at Co-op City and as of December 31, 1972 amounted to a total of $917,338. Thus, assuming that our waiting list of 7,000 applicants were to suddenly melt away, this substantial reserve fund would nevertheless be available for the exercise of options and repurchase of stock at par value, which is the exact price paid.

6. I respectfully state that no one familiar with the facts with regard to this type of cooperative housing in the State of New York would seriously contend that any stockholder of

Riverbay Corporation could ever anticipate selling his stock at a profit.

7. As to the question whether the stock which was purchased at a price of $25 per share ($450 per room) is today worth at least that figure, the answer is also clear. Every person who has moved from Co-op City to date, as well as the approximately 15,000 people who have subscribed for stock at some point and late changed their minds before moving in, promptly received the full return of the purchase price of his stock. Any person who desires to move today, tomorrow or at any time in the future, will promptly receive the full purchase price of his stock.

8. Similarly, while the rentals have risen and will rise further, the apartments remain an outstanding value. Current housing built under the Mitchell-Lama Law costs at least twice as much in monthly rentals and would cost at least twice as much in construction costs as well. The total cost of Co-op City was approximately $400,000,000.

It would cost $800,000,000 to build it today.

9. We, today, have thousands of people who are on our waiting list, willing and eager to buy apartments at Co-op City at the stated price of $25 per share, or $450 per room, with full knowledge that the current rent is approximately $35 per room and that it will rise to approximately $40 per room on July 1, 1974. Moreover, approximately 4,500 of the current residents of Co-op City elected to move into the development after the present rent levels were announced to them, even though they could, if they wished, have cancelled their applications and received full refund of their payments.

10. Accordingly, it seems beyond dispute that, regardless of the other issues raised, the stock purchased by the residents at Co-op City is today worth at least as much as they paid for it.

s/ Harold Ostroff

[Duly sworn to
March 20, 1973]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

GEORGE BERGER, being duly sworn, deposes and says:

1. I am a member of the firm of Phillips, Nizer, Benjamin, Krim & Ballon, attorneys for the plaintiffs herein, and I make this affidavit to bring to the attention of the Court, an additional fact of which we were not aware on January 30, 1973, the date of execution of the plaintiffs' affidavits herein. This new fact lays to rest the defendants' contention (however specious) that the plaintiffs are not "stockholders" because they have not as yet received their certificates.

2. On January 27, 1973, the Co-op City Times published on page 1, a statement by the defendant Riverbay Corporation, which corporation, as has been previously demonstrated, is under the control of the other defendants herein. A copy of

that statement is annexed hereto as Exhibit 1 and made a part hereof.

3. As appears therefrom, the defendants advised the plaintiffs and the class they seek to represent, that they may deduct on their personal income tax returns for the year 1972, a "proportionate share of interest and real estate taxes paid by [Riverbay]." This advice was undoubtedly intended to apprise the plaintiffs of the provisions of Section 216 of the Internal Revenue Code, which states, that "in the case of a tenant-stockholder (as defined in sub-Section (b)(2)," such a deduction is permissible. Sub-section (b)(2) defines a "tenant-stockholder" as follows: "An individual who is a stockholder in a co-operative housing corporation . . . ." (Emphasis added). The same definition is employed in Reg. § 1.216-1(e).

4. It is inconceivable that the defendants can argue on this motion that the plaintiffs are not "stockholders" and, at the same time, advise them to take deductions on their income tax returns, which

are necessarily dependent upon their status as such stockholders.

s/ George Berger
GEORGE BERGER

[Duly sworn to
March 28, 1973]

EXHIBIT 1 - STATEMENT BY RIVERBAY CORPORATION DATED JANUARY 27, 1973 - ANNEXED TO SUPPLEMENTAL AFFIDAVIT OF GEORGE BERGER

Co-op City Times

Co-op City's official publication/serving 15,382 member families in the world's largest cooperative community.

VOL. 8, No. 13 — January 27, 1973

1972 Income Tax Deductions

The tax law provides that each tenant-cooperator may deduct his proportionate share of interest and real estate taxes paid by the housing corporation.

These deductions are available only if the taxpayer itemizes his deductions and does not take the optional standard deductions.

The deductions available to each cooperator for 1972 are:
Real Estate Taxes - 7.66% of carrying charges paid for 1972
Interest - 70.59% of carrying charges paid for 1972

To compute your deductions take the following steps:

1. Deduct your reserve fund payment (50 cents per room) from your monthly carrying charge.
2. Multiply the resulting figure by the number of months you resided in Co-op City during the year 1972 to obtain the amount of rent paid.
3. Multiply the amount obtained in (2) above by the percentages shown opposite Real Estate Taxes and Interest. These are the amounts you are permitted to deduct.

Example:

John and Jane Doe live in a 5-room apartment, and pay a monthly carrying charge of $192.50 (including the Reserve Fund charge of 50 cents per room). They lived in Co-op City for the entire year of 1972, so their computation would be:

1. $192.50—monthly carrying charge
   − 2.50—(50 cents per room reserve fund)
   $190.00 Base
2. $190.00 x 12 months = $2280
3. $2280 x 7.66% = $174.65 Real Estate Tax
   $2280 x 70.59% = $1609.45 Interest

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SECOND SUPPLEMENTAL AFFIDAVIT OF GEORGE BERGER - SWORN TO AUGUST 31, 1973 - IN SUPPORT OF CROSS-MOTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

[SAME TITLE]

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

GEORGE BERGER, being duly sworn to, deposes and says:

1. I am a member of the firm of Phillips, Nizer, Benjamin, Krim & Ballon, attorneys for the plaintiffs herein, and I make this affidavit to bring to the attention of the Court a new fact which materially bears upon one of defendants' contentions in the pending motion.

2. In support of defendants' argument that Riverbay Corporation would always be in a position to repurchase the stockholders' shares, Harold Ostroff stated:

> "Such cooperatives always exercise the option to purchase whenever there is someone on the waiting list maintained by the cooperatives who wishes to buy the stock. At the present time, Riverbay Corporation has approximately 7,000 applicants on its waiting list and would, therefore, be in a position to exercise the option if anyone wished to sell. With a turnover at present of

> approximately 300 families per annum, this waiting list will last for a long, long time.
>
> * * *
>
> "5. A like reserve fund has been established at Co-op City and as of December 31, 1972 amounted to a total of $917,338. Thus, assuming that our waiting list of 7,000 applicants were to suddenly melt away, this substantial reserve fund would nevertheless be available for the exercise of options and repurchase of stock at par value, which is the exact price paid." (Reply affidavit of Harold Ostroff, sworn to March 20, 1973, ¶¶ 3, 5. Emphasis added.)

3. Attached hereto as Exhibits A and B are advertisements taken out by Riverbay Corporation in this past Weekend's editions of the New York Post and The New York Times, soliciting applications for two and three bedroom apartments. Attached hereto as Exhibit C is a news story appearing in the August 30, 1973 edition of the City News wherein Edward Aronov, identified as the "Executive Manager of Co-op City" is quoted as stating:

> "[T]he advertisements were one-shot insertions designed to 'build up' the waiting lists for two and three bedroom apartments.
>
> "As for one-bedroom apartments, Aronov stated, 'We have thousands of applications for the one-bedroom apartments and at the present rate of move-outs, applicants for one-

> bedroom apartments have to wait for some time before their names are reached.'"

4. It would thus appear that Mr. Ostroff's sworn statement was, at the very least, highly misleading. A waiting list consisting almost exclusively of applicants for one-bedroom apartments can hardly justify the claim that the existing "waiting list" would provide willing buyers for two and three-bedroom apartments "for a long, long time."

s/ George Berger
GEORGE BERGER

[Duly sworn to
August 31, 1973]

s/ Jay F. Gordon
Notary

EXHIBIT A - ADVERTISEMENT, NEW YORK POST, AUGUST 25, 1973 - ANNEXED TO SECOND SUPPLEMENTAL AFFIDAVIT OF GEORGE BERGER

CO-OPS & CONDOMINIUMS

590 Co-ops & Condominiums

1220 5th AV- 4½ rms, 2 pcms, 2l baths, eatin kitchen, 8 closets. Doorman, maintenance including elec. 647-2069. After 7 P.M. 527-1128

CO-OP CITY

REOPENING APPLICATION LIST
2 & 3 BEDROOM APTS ONLY

A SAFE COMMUNITY
FOR FAMILY LIVING

Investment: $450 per room
$38 per rm avg mo carrying chge
Includes central A/C, Gas & elec.

WRITE FOR APPLICATION TO:

CO-OP CITY APPLICATION OFC
4359 BARTOW AVE
CO-OP CITY, N.Y. 10475
GREAT FOR KIDS
Nursery thru High School on Prem.
Recreational facils for whole Fam.
2 SHOPPING CENTERS
GOOD TRANSPORTATION
EXPRESS BUS TO MIDTOWN
NEW IN CITY SUBURB

EXHIBIT B - ADVERTISEMENT, NEW YORK TIMES, AUGUST 26, 1973 - ANNEXED TO SECOND SUPPLEMENTAL AFFIDAVIT OF GEORGE BERGER

CO-OP CITY

Reopening application list
2 & 3 BR apts only
A safe community
for family living

Great for kids
Nursery thru H.S. school on premises
Recreational facils for whole family
3 shopping centers
Good bus transportation
Express bus to midtown
New in city suburb

Investment: $450 per rm
$38 per mo avg mo carrying charges
Incl central air, gas & elec

Write for application to:

Co-op City Applications Office
4359 Bartow Ave, Co-op City, N.Y. 10475

EXHIBIT C - NEWS STORY, CITY NEWS, AUGUST 30, 1973 - ANNEXED TO SECOND SUPPLEMENTAL AFFIDAVIT OF GEORGE BERGER

CITY NEWS — Thursday, August 30, 1973

CC Takes Out Real Estate Ads To Build Up Waiting Lists

For the first time since Co-op City's initial 15,372 families were settled into the development, Riverbay Corp. has utilized real estate advertisements to reopen the waiting list to new applicants.

Ads appeared in the weekend edition of the New York Post and Sunday's New York Times announcing that Co-op City is "reopening application list" for "2 and 3 bedroom apts only."

According to Edward Aronov, executive manager of Co-op City, the advertisements were one-shot insertions designed to "build up" the waiting lists for two and three-bedroom apartments.

As for one-bedroom apartments, Aronov stated, "We have thousands of applications for the one-bedroom apartments and at the present rate of move-outs, applicants for one-bedroom apartments have to wait for some time before their names are reached."

"The waiting lists for the two and three-bedroom apartments are shorter," Aronov said, indicating he did not know the exact number.

One of the reasons the waiting lists have thinned is the requirement of a $100 nonrefundable deposit for any prospective resident desiring to get his name on the waiting list.

But Aronov said that the $100 requirement "did nothing but eliminate from the list those persons who were not interested enough and not ready to move."

The ads that appeared in the two daily newspapers characterized Co-op City as a city in a "suburban" setting and made a specific appeal to families with young children—"great for kids, nursery through high school on premises, recreational facilities for whole family." It also mentioned three shopping centers, "good transportation" and an express bus to midtown as selling points.

Both ads also stated that moving into Co-op City requires an investment of $450 per room, with an average carrying charge per room of $38 a month that includes central air conditioning, gas and electricity. But it failed to mention the tax reduction.

Both the Times and the Post ads described Co-op City as a "community for family living." The Post advertisement added the word "safe" to the description.

Aronov noted that the majority of residents who have moved out of Co-op City listed the purchase of a house as the reason for leaving. The executive manager said that present difficulties in obtaining house mortgages, a higher interest rate demanded by banks and general upward inflationary costs have dampened interest in purchasing a house among Co-op City families.

OPINION AND ORDER OF JUDGE PIERCE, PAGES 405a-445a

See Appendix B attached to the Petition.

JUDGMENT APPEALED FROM, PAGES 446a-end.

See Appendix C attached to the Petition.